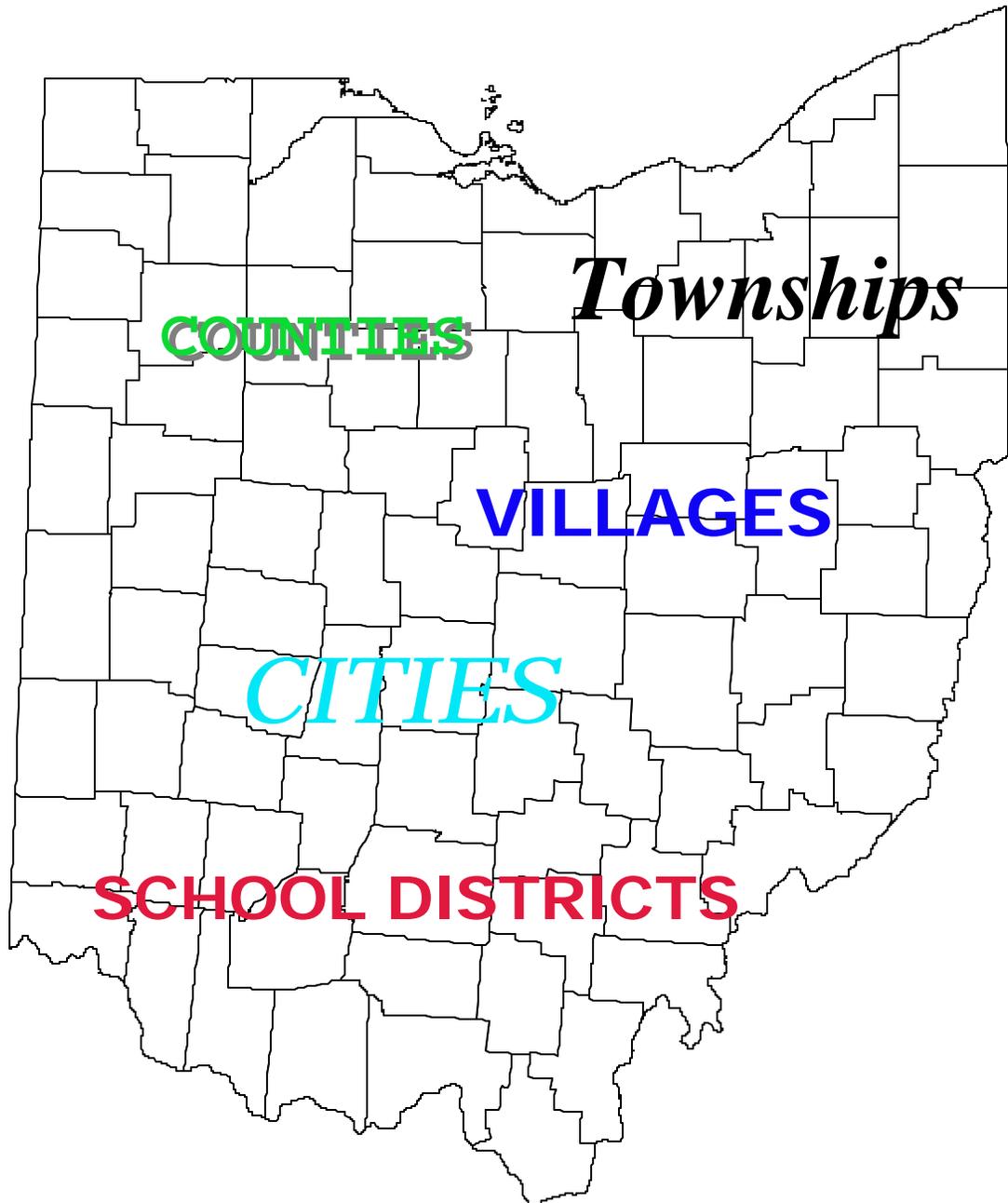


# 2002 Local Impact Statement Report

## *Bills Passed in 2002 That Became Law*



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## Introduction

### Why is this report being issued?

The Legislative Service Commission publishes the Local Impact Statement Report in accordance with section 103.143 of the Ohio Revised Code. Section 103.143 requires the office to compile the final local impact statements completed for all laws passed by both houses of the General Assembly every calendar year. This report is the eighth in the series of such reports. It covers all legislation that was passed and enacted during calendar year 2002.

As specified in ORC section 103.143, the Local Impact Statement (LIS) Law, this report is a compilation of estimates produced by LSC *during* the legislative process. This report does *not* present the *actual costs* to local governments, since these costs will not occur until after each law is implemented.

### What is in this report?

The 2002 report includes summary charts and an overview of bills that were introduced, passed and enacted, and bore provisions that triggered a “Yes” local impact determination. The criteria that LSC uses to evaluate the effect of proposed legislation on local governments are detailed below.

Before its widespread distribution, LSC is required to circulate a draft of this report to the County Commissioners Association of Ohio, the Ohio School Boards Association, the Ohio Municipal League, and the Ohio Township Association for their review.

### What process is followed for local impact review?

By law, local impact determinations are based on LSC’s review of bills in their “As Introduced” form. The initial determination stays with the bill even if a bill is amended in such a way as to alter the initial local impact determination. There were eight such bills in 2002, which are highlighted in this report. Occasionally an initial determination is wrong. If so, LSC corrects the LIS as soon as possible, and the correct determination is assigned to the bill from that point on.

The “Local Impact” determination is the first stage of LSC’s fiscal analysis of pending legislation. The purpose is to alert legislators to the various fiscal effects that legislation may impose on counties, municipalities, townships, and school districts. The bill sponsor, committee chair, and legislative leaders of the house to which the bill has been introduced all receive notification of LSC local impact determination. Although bills often affect other more specialized units of government, such as park districts, transit authorities and so forth, by law these entities are not included in the initial local impact review. These factors, however, *are* considered in the fiscal notes that accompany bills as they proceed through the legislative process.

## **What changes have been made to the Local Impact Statement Law?**

The Local Impact Statement Law has been modified three times: first, in 1997 by H.B. 215 of the 122nd General Assembly; second, in 1999 by H.B. 283 of the 123rd General Assembly; and third, in 2001 by H.B. 94 of the 124th General Assembly. The combined effect of the first two acts is to exempt the following bills from the local impact determination process:

1. The main biennial operating appropriations bill;
2. The biennial operating appropriations bill for state agencies supported by motor fuel tax revenue;
3. The biennial operating appropriations bill or bills for the bureau of workers' compensation and the industrial commission;
4. Any other bill that makes the principal biennial operating appropriations for one or more state agencies;
5. The bill that primarily contains corrections and supplemental appropriations to the biennial operating appropriations bill;
6. The main biennial capital appropriations bill;
7. The bill that reauthorizes appropriations from previous capital appropriations bills.

Regardless, in accordance with ORC section 103.14, LSC continues to assess the impact that such bills have on local governments in the fiscal notes and analyses that accompany such bills. In 2002, four enacted bills were exempt from the Local Impact Statement Law pursuant to the reasons stated above. They are the capital reappropriations bill (Am. Sub. H.B. 524), the capital appropriations bill (H.B. 675), the tobacco settlement appropriations bill (Am. Sub. S.B. 242), and a budget correction bill (Am. Sub. S.B. 261).

House Bill 94 of the 124th General Assembly made two changes to the Local Impact Statement Law. First, it changed "Legislative Budget Office" to "Legislative Service Commission" to reflect the merger of the two organizations in September 2000. Secondly, H.B. 94 removed references to the State and Local Government Commission because of its abolishment.

## **What factors are considered in LSC's initial review for local impact?**

The Legislative Service Commission uses the following guidelines to determine if a bill may affect local governments in such a way to trigger a "Yes" LIS determination:

1. The estimated aggregate annual cost of the bill is more than \$100,000 for all affected local governments; or
2. The estimated annual cost is more than \$1,000 for any affected village and township with a population of less than 5,000 or for any school district with an average daily membership (ADM) of less than 1,000; or

3. The estimated annual cost is more than \$5,000 for any affected county, municipal corporation, and township with a population of 5,000 or more or for any school district with an ADM of 1,000 or more.

Finally, in the local impact review process, the following types of bills are excluded from a “Yes” determination: legislation that is deemed permissive; appears to impose only minimal costs on political subdivisions; or involves federal mandates.

### **Obtaining copies of this report**

Copies are available upon request from the Ohio Legislative Service Commission at a cost of \$12.00 per copy. Call LSC at 614-995-9995 to receive a copy, or download the reports from the LSC website at <http://www.LSC.state.oh.us/>.

**COMMENTS ON 2002  
LOCAL IMPACT STATEMENT REPORT**



## COUNTY COMMISSIONERS ASSOCIATION OF OHIO

The 2002 Local Impact Statement Report prepared by the Ohio Legislative Service Commission (LSC) shows the impact of unfunded mandates on county government. The Report continues to show that counties are more heavily impacted than are schools, townships, or municipalities by these legislative initiatives. Of the 23 bills that became law during 2002 for which a Local Impact Statement was prepared, 19 impacted counties. At the same time, 15 of the bills impacted municipalities, 15 impacted townships, and 10 affected school districts.

The Local Impact Statement process is a valuable tool that we believe makes members of the General Assembly more aware of how their decisions have financial implications to counties and other local units of government. However, the Report does not give a comprehensive and accurate view of unfunded mandates from the perspective of counties because the General Assembly has exempted budget bills from the LIS process and, thus, this Report.

A reader of this Report would “miss” the extension of the “freeze” in Local Government Funds, a form of state revenue sharing with local governments; the elimination of reimbursement for lost revenue resulting from the state exemption on tangible personal property tax; the acceleration of the phase out of the inventory tax; the continued woefully inadequate funding of indigent defense; or the reductions in funding for child support enforcement or child protective service, responsibilities the state expects the counties to perform. These significant fiscal impacts were incurred by counties as a result of the state budget process. In our view, they are also unfunded mandates and carry a far greater significance than the legislation reviewed in this Report.

Unfunded mandates continue to plague all units of local government. Their impact becomes more severe, however, when coupled with the current economic climate. The demands for county government services, most of which the county delivers on the state’s behalf, continue to increase while revenue sources for county governments have stagnated or declined. Unfunded mandates continue to erode the foundation of a viable state/county partnership - county fiscal security.

We again thank the Legislative Service Commission for the opportunity to comment on this report. The LSC staff is always fair and objective and they provide a true service to local governments in preparing professional Local Impact Statements under what is often challenging circumstances.

We urge the General Assembly to include the fiscal impacts of state budget bills under the LIS process and that these bills will be included in these reports in the future. Only then, will we have a true picture of the impacts of unfunded mandates on local governments.



# Ohio Municipal League

*Our Cities and Villages ★ Bringing Ohio to Life*

## **OHIO MUNICIPAL LEAGUE**

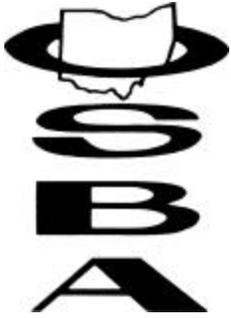
The Ohio Municipal League has reviewed the draft for the 2002 Local Impact Statement Report and would like to make the following comments.

The report has improved with each passing session. The same can be said for the actual fiscal notes and local impact statements.

The report provides helpful information to organizations representing local governments, their respective members and the public: information that would otherwise be difficult to compile. It shows that numerous pieces of legislation have a potential negative impact on local governments whose officials are already faced with declining revenues.

We are always optimistic that this document will gain a larger recognition with state decision makers as they consider imposing additional programs or duties on local governments or reducing or limiting funding.

The Ohio Municipal League commends the staff at LSC for the time and effort they put into the individual statements and to this report.



## **OHIO SCHOOL BOARDS ASSOCIATION**

The Ohio School Boards Association would like to thank the Ohio Legislative Service Commission and the efforts that have gone into preparing the 2002 Local Impact Statement Report. As per Section 103.143 of the Ohio Revised Code division (D) it allows OSBA and other political subdivisions to comment on this annual local impact statement report.

OSBA believes the issue of unfunded and underfunded mandates will always be of concern and the work done by LSC to provide fiscal analysis of bills and resolutions is invaluable to legislators and the whole legislative process. However, OSBA believes that local impact statements should be required at each phase of the legislative process.

The 2002 Local Impact Statement Report shows that 167 bills passed in 2002 and became law. There were 5 bills that had no fiscal impact “As Introduced” but later were amended in the legislative process and ended up having fiscal impact to local political subdivisions in their “As Enacted” versions. Under this circumstance these bills were changed and a local impact statement wasn’t made again until after the bills became law. This is an area where current law can be improved. LSC should have the authority to analyze the fiscal impact of bills throughout the whole legislative process. Legislation can change many times before a final version is reached and the potential for negative fiscal impact on local political subdivisions exists by amendments to any piece of legislation.

Another area that needs to be addressed in current law is Division (F) of Section 103.143 of the Ohio Revised Code. This section of law exempts LSC from having to create a local impact statement for any biennial budget, capital appropriation and any budget correction bill. OSBA supports the findings by the former State and Local Government Commission (Commission) that urged the General Assembly to amend current law to repeal the exemptions contained in Division (F) of Section 103.143 and to allow LSC to update impact statements throughout the legislative process.

OSBA believes that the 2002 Local Impact Statement Report is a valuable tool provided by the Ohio Legislative Service Commission to the members of the Ohio General Assembly and to all Ohioans. The concerns expressed above if changed can only improve the process and give the full picture to the legislature as they make important decisions on legislation that has fiscal implications to the bottom line of all of the local government entities. OSBA looks forward to addressing these concerns with the Ohio General Assembly and we look forward to working with the Legislative Service Commission.



## OHIO TOWNSHIP ASSOCIATION

The Ohio Township Association (OTA) would like to thank the Ohio Legislative Service Commission (LSC) for the opportunity to comment on the proposed 2002 Local Impact Statement Report. The LSC Local Impact Report helps educate our membership and the members of the General Assembly on the effect certain legislation will have on townships budgets and keeps legislators and local officials aware of any unfunded mandate created in legislation proposed and passed by the General Assembly.

As we have stated in the past, the fiscal impact legislation may have on townships often is under estimated. Provisions established in legislation such as filing, notification and public hearing requirements could create significant costs for townships. The OTA is pleased that LSC takes such costs into consideration when determining local fiscal impact. Although the actual impact these new laws will have on townships will not be known until the laws are put into practice, the fiscal analyses provide a base for our townships to determine how a new law may affect their budgets.

A bill is determined to have fiscal impact if its estimated annual cost is more than \$1,000 for townships with a population of less than 5,000 or if its estimated annual cost is more than \$5,000 for townships with a population of more than 5,000. Although \$1,000 or \$5,000 may not seem like a great deal of money when compared with the total budget of the township, the loss of such revenue may create a significant impact.

According to the 2002 report, there are nine bills with a local impact for townships, potentially resulting in a loss of dollars for township governments. Of the nine pieces of legislation that will potentially result in a negative net effect, five of the bills will result in a loss of revenue for townships and eight of the bills will result in an increase of expenditures. In addition to the bills listed in this report, several budget correction bills were passed in 2002 that also created a loss of revenue for townships. Townships have not experienced this type of revenue loss since the establishment of this Local Impact Statement Report.

Townships, unlike other political subdivisions, do not have the taxing authority to replace lost revenue. The only tax that a township can levy is the property tax. In 2002, three bills passed that could potentially result in the loss of real property tax revenue. One such bill is HB 65, which exempts from taxation property held or occupied by veteran's organizations that qualify for income tax exemption under the Internal Revenue Code. In the detailed analysis of HB 65, it is estimated that real property tax revenue will decrease by \$1.96 million for tax year 2002 and the loss would increase in subsequent years as the qualifying income level increases. Townships in Ohio would receive approximately 20% of that revenue which amounts to \$392,000 for tax year 2002.

Rising health care costs is one of the largest problems facing employers today and township government is no exception. Health insurance rates for townships raised an average of fifteen percent in 2002. There were two pieces of legislation passed in 2002 that could cause those rates to increase even more: House Bill 150 and Senate Bill 223. House Bill 150 requires insurance plans to cover the cost of hearing screenings for newborns and thus could result in insurance companies raising their rates to cover this mandate. According to the LIS for SB 223, the legislative change could result in additional cases and additional health care costs for local governments.

The OTA appreciates the opportunity to provide our input and we look forward to working further with the Legislative Service Commission.

## **Part I**

# **Summary and Analysis**

# Summary and Analysis

## Introduction

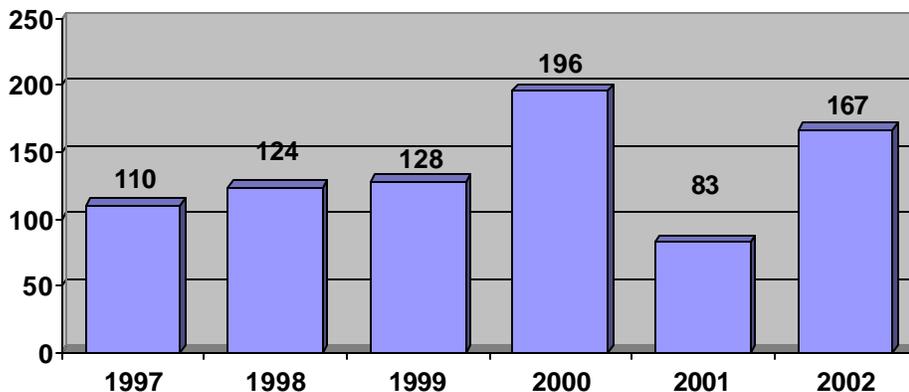
In 1995, the Legislative Budget Office (now the Legislative Service Commission Fiscal Staff) produced the first local impact statement (LIS) as required by S.B. 33 of the 120th General Assembly. The purpose of local impact statements is to provide members of the General Assembly with more thorough and timely information on the potential impacts of proposed legislation on counties, municipalities, townships, and school districts (referred to generically as “local governments” hereafter). The LIS information is designed to allow legislators to make better-informed decisions on bills that could affect local governments.

This section will examine the bills that were enacted in 2002 and during the 124th General Assembly. Comparisons are made with the bills enacted in 2002 and those enacted in previous years.

## Bills Becoming Law

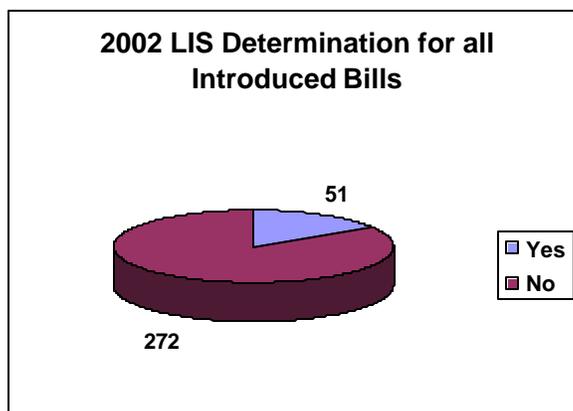
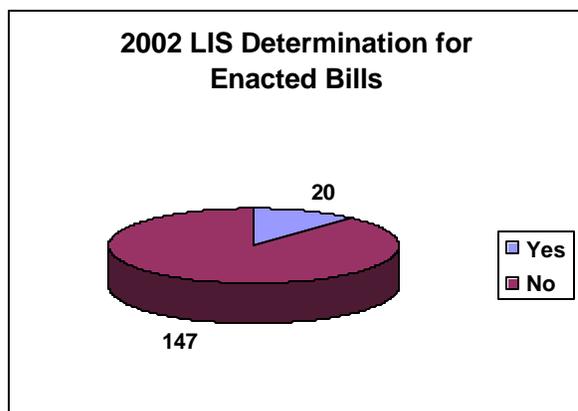
In calendar year 2002, the 124th General Assembly passed 108 House bills and 59 Senate bills, for a total of 167. The total number of enacted bills over the past six years has varied from a low of 83 in 2001 to a high of 196 in 2000. The number of bills passed in 2002 is the second highest total in the past six years. Overall, 250 of the 992 bills introduced in the 124th General Assembly became law.<sup>1</sup>

**Bills Passed and Becoming Law, 1997 – 2002**



<sup>1</sup> Actually, the 124th General Assembly passed 84 bills in 2001. However, the Governor vetoed S.B. 148 in December 2001. Thus, only 83 bills passed in 2001 actually became law.

## Bills with Local Impact (YES) and without Local Impact (NO)



### Of the 167 bills passed in 2002 that became law:

- 149 of the 167 bills that passed were initially determined by LSC to have no local impact.
- 18 of the 167 bills that passed were initially determined by LSC to have a local impact.<sup>2</sup>
- 3 bills had a local impact “As Introduced,” but were estimated to have minimal or no local cost “As Enacted”
- 5 bills *did not* have a local impact “As Introduced,” but were estimated to have a local impact “As Enacted”
- 20 bills had a local impact “As Enacted.”

### Of the 324 bills introduced in 2002:<sup>3</sup>

- 51 of all bills introduced in 2002 have a local impact.
- 272 of all bills introduced in 2002 have no local impact.

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<sup>2</sup> Please see the introduction for an explanation of the criteria LSC uses when making local impact determinations.

<sup>3</sup> H.B. 676 was not assigned to a committee and therefore a local impact determination was not completed.

## Impact of the LIS

The 124th General Assembly introduced 992 bills. Out of these 992 bills, 250 were enacted.<sup>4</sup> In 2001, 83 of the enacted bills were passed, and 167 bills were passed in 2002. Table 1 shows that 12% or 20 of the enacted bills in 2002 did have a local impact “As Enacted.” This is slightly lower than 2001 when 14% of the enacted bills were determined to have a local impact. Eighty-eight percent or 147 of the enacted bills in 2002 had no local impact “As Enacted.” This is slightly higher than the previous year when 86% of the enacted bills were determined to have no local impact.

**Table 1: 124th General Assembly Enacted Bills**

| The Numbers |          |         |       | The Percentages |       |      |         |
|-------------|----------|---------|-------|-----------------|-------|------|---------|
| Year        | # of YES | # of NO | TOTAL | Year            | % YES | % NO | % TOTAL |
| 2001        | 12       | 71      | 83    | 2001            | 14 %  | 86 % | 100 %   |
| 2002        | 20       | 147     | 167   | 2002            | 12 %  | 88 % | 100 %   |

Table 2 shows that during the 124th General Assembly, 15% of all bills with an initial “Yes” local impact determination were enacted and 28% of all bills with no local impact were enacted. Thus, more bills with a “No” local impact determination were enacted than bills with a “Yes” local impact determination. Overall, 25% of all the bills introduced in the 124<sup>th</sup> G.A. were enacted.

**Table 2: Bills Passed by the 124th General Assembly that Became Law**

| Initial Review | # of Enacted Bills | # of Introduced Bills | % Becoming Law |
|----------------|--------------------|-----------------------|----------------|
| YES            | 30                 | 196                   | 15%            |
| NO             | 220                | 794                   | 28%            |
| TOTAL          | 250                | 992 <sup>5</sup>      | 25%            |

Table 3 shows similar results for the 123rd General Assembly. Seventeen percent of bills with a “Yes” local impact determination were enacted, and 31% of all bills with a “No” local impact determination were enacted. Twenty eight percent of all the bills introduced in the 123rd General Assembly were enacted.

<sup>4</sup> S.B. 148 was vetoed by the Governor in December 2001.

<sup>5</sup> H.B. 246 and H.B. 676 were not assigned to a committee and therefore a local impact determination was not completed.

**Table 3: Bills Passed by the 123rd General Assembly that Became Law**

| Initial Review | # of Enacted Bills | # of Introduced Bills | % Becoming Law |
|----------------|--------------------|-----------------------|----------------|
| YES            | 47                 | 276                   | 17%            |
| NO             | 277                | 884                   | 31%            |
| TOTAL          | 324                | 1160                  | 28%            |

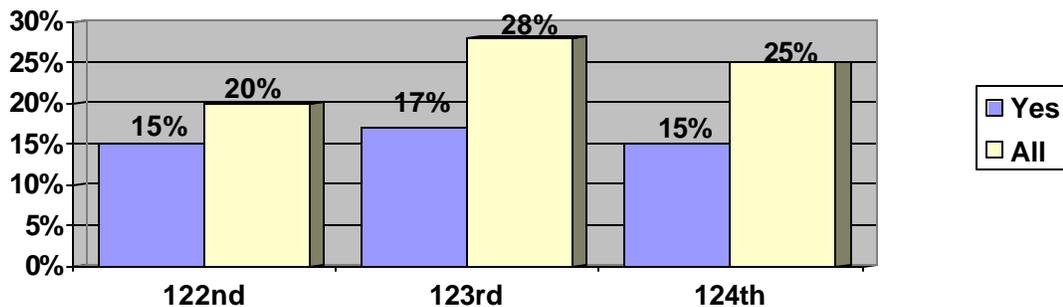
Table 4 also shows similar results for the 122nd General Assembly. Fifteen percent of bills with a “Yes” local impact determination were enacted, and 22% of all bills with a “No” local impact determination were enacted. Twenty percent of all the bills introduced in the 122nd General Assembly were enacted.

**Table 4: Bills Passed by the 122nd General Assembly that Became Law**

| Initial Review | # of Enacted Bills | # of Introduced Bills | % Becoming Law |
|----------------|--------------------|-----------------------|----------------|
| YES            | 38                 | 253                   | 15%            |
| NO             | 196                | 889                   | 22%            |
| TOTAL          | 234                | 1142                  | 20%            |

The chart below presents the data for all three General Assemblies, indicating that a lower percentage of bills with a “Yes” local impact are enacted when compared to the average for all bills. For example, 15% of bills with local impact were enacted by the 124th General Assembly, whereas 25% of all bills were enacted. Thus, bills with local impact tend to be enacted less frequently than bills with no local impact.

**Enacted Bills for the Past Three General Assemblies**



## ***Bills with Local Impact “As Introduced” or “As Enacted”***

The following chart lists all 18 bills passed in 2002 that became law and were designated with “Yes” local impact determinations in their “As Introduced” form.

| <b>Bill</b>     | <b>Subject</b>  | <b>Political Subdivision Affected<sup>6</sup></b> |
|-----------------|---|---|
| <b>H.B. 65</b>  | Exempts from taxation property held or occupied by veterans' organizations that qualify for income tax exemption under the Internal Revenue Code.   | C, M, T, SD                                       |
| <b>H.B. 70</b>  | To include appurtenances to roads and bridges to enhance the safety of animal-drawn vehicles, pedestrians, and bicycles in the types of projects for which local subdivisions may receive financial assistance through the Ohio Public Works Commission   | C, M, T   |
| <b>H.B. 198</b> | Requires delinquent property tax collections to be distributed among taxing districts in proportion to current tax rates, rather than the rates in effect while the taxes were outstanding and makes slight changes regarding county auditor's tax valuation certifications   | C, M, T, SD                                       |
| <b>H.B. 221</b> | Establish a drug repository program for the collection and redistribution of prescription drugs that are in their original unopened packaging   | C, M, T   |
| <b>H.B. 329</b> | Allows local government funds under certain circumstances to be distributed under an alternative apportionment scheme without the approval of the largest city in the county  | M   |
| <b>H.B. 364</b> | Expands community school law  | SD  |
| <b>H.B. 384</b> | To require public and nonpublic schools to have an employee trained in the performance of the Heimlich maneuver present during periods of food service to students, and limits the liability of nonpublic school employees  | SD  |
| <b>H.B. 416</b> | Provides property tax exemptions for certain retirement homes, nursing homes, and independent living facilities belonging to a tax-exempt organization  | C, M, T, SD                                       |
| <b>H.B. 426</b> | Modifies appraisal requirements for state agencies and political subdivisions making real property acquisitions from private owners   | C, M, T, SD                                       |
| <b>H.B. 490</b> | Implements the recommendations of the Criminal Sentencing Commission pertaining to misdemeanor sentencing generally and makes other changes in the criminal law, including changes in the law regarding matter harmful to juveniles, and in certain provisions regarding the issuance of motor vehicle registrations or driver's licenses | C, M  |
| <b>H.B. 499</b> | Adds one additional judge for the general division of the Butler County Court of Common Pleas to be elected in 2002 for a term to begin January 3, 2003 and declares an emergency   | C   |

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<sup>6</sup> C=counties; M=municipalities; T=townships; SD=school districts

|                 |  |             |
|-----------------|--|-------------|
| <b>H.B. 515</b> | Makes changes relating to the board of township trustees' journal, meeting minutes, and publication of resolutions in a home rule township; and allows civil service townships that are urban townships to appoint any one of the three highest scorers on a police or fire department promotional exam  | T           |
| <b>S.B. 123</b> | Amends various traffic laws to include recommendations from the Ohio Criminal Sentencing Commission  | C, M, T     |
| <b>S.B. 134</b> | Provides for establishment of the Ohio Police and Fire Pension Fund deferred retirement option plan  | C, M, T     |
| <b>S.B. 144</b> | Establishes the Ethanol Incentive Board, creates corporate franchise and personal income tax credits for ethanol plants, expands the definition of air quality facilities to include ethanol and biofuels plants, and declares an emergency  | C, M, T, SD |
| <b>S.B. 180</b> | Creates the Ohio Venture Capital Program to provide for the direction of moneys from loans into investments in venture capital funds secured through Program revenues and refundable and nonrefundable tax credits that may be claimed against the corporation franchise tax, the personal income tax, the domestic insurance tax or the foreign insurance tax; requires state and county taxing officials to notify local taxing authorities of pending pollution control tax exemption applications; allows certain real property taxpayers to file a complaint with the Board of Tax Appeals; prohibits municipal corporations from taxing S corporations shareholders' distributive shares of net profits; and makes changes to the job retention tax credit | C, M, T, SD |
| <b>S.B. 223</b> | Requires payment, under Workers' Compensation Law, for the costs of medical diagnostic tests for on or off-duty police, fire and emergency first responders that have come into contact with the body fluid of another person  | C, M, T, SD |
| <b>S.B. 255</b> | Revises the provisions on the use of public right-of-ways by utility service providers and cable operators and makes other changes   | C, M, T     |

The following chart lists the five bills passed in 2002 that became law and were designated with "No" local impact in their "As Introduced" form, but contain local impact in their "As Enacted" form.

| <b>Bill</b>     | <b>Subject</b>   | <b>Political Subdivision Affected</b> |
|-----------------|--|---------------------------------------|
| <b>H.B. 150</b> | Require a hearing screening for each newborn born in a hospital  | C, M, T, SD                           |
| <b>H.B. 327</b> | Clarifies certain provisions of the Felony Sentencing Law, corrects the penalty provisions for illegal processing of drug documents, clarifies the eligibility criteria for intervention in lieu of conviction, requires applicants for nurse licensure and dialysis technician certification to have a criminal records check, expands the offense of unauthorized use of property to specifically include nonconsensual access to a cable service or cable system, revises certain provisions of the law governing nurses and dialysis technicians as to licensing or certification, duties, and training, specifies that the members of the Ohio Council for Interstate Adult Supervision serve without compensation but are to be reimbursed for expenses, and extends until July 1, 2002, the date by which the State Criminal Sentencing Commission must recommend changes to the state's criminal forfeiture laws | C                                     |

|                 |   |      |
|-----------------|---|------|
| <b>H.B. 510</b> | Amends existing law relative to the operation of the Department of Rehabilitation and Correction, including the treatment of prisoners, the Adult Parole Authority, and the confidentiality of certain reports and information, expands the offense of sexual battery, creates the offense of illegal conveyance of a communications device onto the grounds of a detention facility, and provides for the auditing of community-based correctional facilities  | C    |
| <b>H.B. 530</b> | Modifies the small county exception to the drawing, summoning, and service of jurors for a term or part of a term of a court of common pleas, allows the board of trustees of a fire district to issue bonds for the purpose of acquiring fire-fighting equipment, buildings, and sites, allows municipal court judges and county court judges to be paid in biweekly installments, confirms certain amendments of Sub. H.B. 8 of the 124th General Assembly relating to the creation of an additional term of the drug court judge of the Hamilton County Court of Common Pleas, creates the Brown County Municipal Court with one full-time judgeship in that court and abolishes the Brown County Court, continues the authority of the mayor of Georgetown to conduct a mayor's court, creates the Morrow County Municipal Court with one full-time judgeship in that court and abolishes the Morrow County Court, continues the authority of the mayor of Mount Gilead to conduct a mayor's court, and declares an emergency | C, T |
| <b>S.B. 175</b> | Revises the law regarding sexual predator hearings for offenders convicted of a sexually oriented offense but acquitted of a sexually violent predator specification, revises the law regarding Department of Rehabilitation and Correction employees' immunity for acts under the Sex Offender Registration and Notification Law, makes certain importuning violations a sexually oriented offense, expands the sex offender community notification provisions to give more neighbors notice and earlier notice, changes the law regarding sexual predators and certain habitual sex offenders providing a notice to sheriffs of an intent to reside at a premise, increases the amount of prior notice sex offenders must provide relative to changing residence, changes the relevant age of the victim and offender for the offense of importuning, and declares an emergency   | C    |

## Bills with Altered Local Impact

This section describes bills passed in 2002 that became law and were altered during the legislative process, so that the “As Enacted” impact on local governments was different from the “As Introduced” local impact.

Out of the 167 bills enacted in 2002, eight of the bills were altered after the initial determination so that the determination would have been different. Three bills were altered after the initial determination so that they no longer had a local impact “As Enacted.” Five bills with no impact “As Introduced” were altered so that they did have a local impact “As Enacted.”

Table 5 demonstrates these results compared to previous years. Overall the number of bills with an altered impact is second highest in 2002 compared to the past years’ figures.

**Table 5: Local Effects Changing from Introduction to Enactment 1999-2002**

|   | 1999 | 2000 | 2001 | 2002 | Total |
|---|------|------|------|------|-------|
| Bills altered so that certain elements, which prompted a “Yes” local impact determination, were eliminated from the enacted bill. | 2    | 5    | 0    | 3    | 10    |
| Bills with a “No” local impact determination altered so that the changes made created a fiscal impact on local governments.       | 4    | 6    | 0    | 5    | 15    |

Over the past four years, the number of bills that were changed from a “No” local impact determination is somewhat higher than the number of bills that were changed from a “Yes” local impact determination. Sixty percent of the bills, whose impact changed, were altered so that they did have a fiscal impact on local governments “As Enacted.”

In 2002, three bills were introduced with a local impact, but the enacted version of the bill did not have a local impact. These bills are H.B. 70, H.B. 221, and H.B. 515. Five bills were introduced with no local impact, but “As Enacted” the bills are estimated to have a local impact. These bills are H.B. 150, H.B. 327, H.B. 510, H.B. 530, and S.B. 175.

*Presentation of 2002 Bills with an Altered Local Impact*

**“Yes” to “No”**

| <b>BILL</b>          | <b>PAGE</b> |
|----------------------|-------------|
| ➤ Sub H.B. 70 -----  | 11          |
| ➤ Sub H.B. 221 ----- | 12          |
| ➤ Am. H.B. 515 ----- | 14          |

**“No” to “Yes”**

| <b>BILL</b>                | <b>PAGE</b> |
|----------------------------|-------------|
| ➤ Sub. H.B. 150 -----      | 16          |
| ➤ Am. Sub. H.B. 327 -----  | 18          |
| ➤ Sub. H.B. 510 -----      | 21          |
| ➤ Am. Sub. H.B. 530 -----  | 23          |
| ➤ Am. Sub. S. B. 175 ----- | 25          |

Bills Passed and Signed into Law for which Local Impact  
Changed from the Initial Determination

## House Bill 70

**Bill Contents:** To include appurtenances to roads and bridges to enhance the safety of animal-drawn vehicles, pedestrians, and bicycles in the types of projects for which local subdivisions may receive financial assistance through the Ohio Public Works Commission

**“As Introduced” LIS Determination:** Yes

**“As Enacted” local impact:** No – Permissive

**Key changes affecting local impact:** Removes a \$5 million earmark from the State Capital Improvements Fund for Amish buggy safety projects.

**Fiscal effects of changes:** The amount of grant moneys available to political subdivisions under the State Capital Improvement Program will remain unchanged by the bill.

**Analysis of changes with fiscal impact:**

The “As Introduced” version of H.B. 70 earmarked \$5 million from the State Capital Improvements Fund (SCIP) for Amish buggy projects. Political subdivisions with Amish communities located within their boundaries were eligible to receive these funds for road widening projects, constructing pull-off lanes, improving curves, placing warning signs, and conducting various studies and programs. However, by earmarking \$5 million in SCIP funds for Amish buggy projects, political subdivisions in other districts would have received reduced SCIP funding.

The “As Enacted” version of H.B. 70 removes the \$5 million earmark and expands the definition of a capital improvement project to include “appurtenances to roads and bridges to enhance the safety of animal drawn vehicles, pedestrians, and bicycles.” This change does not limit the funds available under the State Capital Improvement Funds, and any administrative costs to political subdivisions that apply for such grants are permissive. Any political subdivisions choosing to construct these appurtenances may use the grant money for the same eligible activities as defined in the “As Introduced” version.

Bills Passed and Signed into Law for which Local Impact  
Changed from the Initial Determination

## House Bill 221

**Bill Contents:**

Establish a drug repository program for the collection and redistribution of prescription drugs that are in their original unopened packaging

**“As Introduced” LIS Determination:**

Yes

**“As Enacted” local impact:**

No

**Key changes affecting local impact:**

In the As Introduced version of H.B. 221, local departments of health (LHDs) were designated to serve as the receiver of donated drugs. Once drugs were donated at an LHD, the local department would have been required to use a licensed pharmacist who is volunteering his services to distribute the drugs to eligible individuals or entities. These provisions were removed in the substitute version of the bill (LSC 124 0604-3). The As Introduced version of H.B. 221 also included a personal income tax credit for a portion of the value of drugs donated under the drug repository program. This provision was removed in the substitute version of the bill (LSC 124 0604-3).

**Fiscal effects of changes:**

There is no direct fiscal effect on political subdivisions in the As Enacted version of the bill.

## Bills Passed and Signed into Law for which Local Impact Changed from the Initial Determination

### *Analysis of Changes with Fiscal Impact*

#### Local Departments of Health

In the As Introduced version of H.B. 221, local departments of health (LHDs) were designated to serve as the receiver of donated drugs. Once drugs were donated at an LHD, the local department would have been required to use a licensed pharmacist who is volunteering his services to distribute the drugs to eligible individuals or entities.

Under the original provisions of the bill, local health departments would have incurred some costs associated with administrative tasks involved with operating the drug repository program. Although many LHDs would have been able to utilize existing staff to perform these duties, it is likely that there would have been some departments that would incur added costs exceeding \$5,000 annually.

These provisions were removed in the substitute version of the bill (LSC 124 0604-3). Thus, there is no direct fiscal effect on political subdivisions in the As Enacted version of the bill.

#### Tax Credit

The As Introduced version of H.B. 221 also included a personal income tax credit for a portion of the value of drugs donated under the drug repository program. The tax credit would have reduced an individual's tax liability and therefore reduce the amount of tax collected. This decrease in revenue would have been borne entirely by the GRF in FYs 2002 and 2003. In future years, the loss in revenue would have been split between the GRF (89.5% of any loss), the Local Government Fund (4.2% of any loss), the Local Government Revenue Assistance Fund (0.6% of any loss), and the Library and Local Government Support Fund (5.7% of any loss).

This provision was removed in the substitute version of the bill (LSC 124 0604-3). Thus, there is no direct fiscal effect on political subdivisions in the As Enacted version of the bill.

Bills Passed and Signed into Law for which Local Impact  
Changed from the Initial Determination

## House Bill 515

**Bill Contents:**

Makes changes relating to the board of township trustees' journal, meeting minutes, and publication of resolutions in a home rule township; and allows civil service townships that are urban townships to appoint any one of the three highest scorers on a police or fire department promotional exam

**“As Introduced” LIS Determination:**

Yes

**“As Enacted” local impact:**

No - Permissive

**Key changes affecting local impact:**

The enacted bill does not include the introduced provision that would have required urban township employees to be in the same occupational classifications as municipal employees for workers' compensation.

**Fiscal effects of changes:**

The provision placing urban township employees in the same workers' compensation classification as municipal employees could have increased or decreased costs to urban townships depending on whether they were placed in the same classification with cities or with villages.

## Bills Passed and Signed into Law for which Local Impact Changed from the Initial Determination

### *Analysis of Changes with Fiscal Impact*

The “As Introduced” version of H.B. 515 would have placed urban township employees in the same occupational classifications as municipal employees for workers’ compensation benefits. At the time of the bill’s introduction, there were 15 urban townships subject to the provisions of H.B. 515.

|                     |                              |
|---------------------|------------------------------|
| * Hamilton County   | Delhi, Springfield, Sycamore |
| * Clermont County   | Miami                        |
| * Warren County     | Deerfield                    |
| * Montgomery County | Washington                   |
| * Stark County      | Jackson, Perry, Plain        |
| * Mahoning County   | Austintown, Boardman         |
| * Lucas County      | Sylvania                     |
| * Butler County     | Fairfield, West Chester      |
| * Trumbull County   | Howland                      |

In addition, the introduced version of H.B. 515 contained a provision to permit a township that is both civil service and urban to appoint one of any of the three highest scorers on a police or fire department promotional exam instead of the current practice of promoting only the single highest scorer on the exam(s).

Third, the introduced bill made changes to the keeping of the limited home rule township journal, taking of minutes of board meetings, and publication of board resolutions such that the township trustees might designate any person, by majority vote, to keep its journal and take the minutes of board meetings.

The change in workers’ compensation occupational classifications could have increased or decreased expenses, while the authority to appoint any of three specifically qualified candidates in fire and police promotions would produce no direct effect on expenses, and the authority to designate anyone to handle the journal and minutes of township board meetings may or may not produce expenses, depending on what specific arrangements the board of township trustees chooses.

The “As Enacted” version of H.B. 515 eliminated the provision for reclassification of urban township employees from the bill and therefore, eliminated the potential for expense increase or decrease in workers’ compensation costs for urban townships.

In the enacted version of H.B. 515, the provision relevant to the appointment of an individual from one of the three highest scorers on the applicable exam(s) to police and fire promotions in urban townships, and the provision permitting the designation of any person to keep the board meeting minutes and journal for the trustees in a limited home rule township were retained. Of these two provisions, only the methods of keeping meeting minutes and the journal may create increased costs, depending on the specific choices the township trustees makes for accomplishing these tasks. Both of these provisions in the enacted bill are permissive.

Bills Passed and Signed into Law for which Local Impact  
Changed from the Initial Determination

## House Bill 150

|  |   |
|--|---|
| <b>Bill Contents:</b>                      | Require a hearing screening for each newborn born in a hospital   |
| <b>“As Introduced” LIS Determination:</b>  | No – No local cost  |
| <b>“As Enacted” local impact:</b>          | Yes   |
| <b>Key changes affecting local impact:</b> | Continuing law requires sickness and accident insurance policies and employee benefit plans that provide coverage for family members and benefits for children to include benefits for child health supervision services for children from birth to age nine. The benefits for child health supervision services that are provided to a child from birth to age one are not required to exceed a maximum of \$500. The act provides that child health supervision services include hearing screenings under the Department of Health's hearing screening program. The coverage for hearing screenings must not exceed \$75 of the \$500 maximum coverage limit. |
| <b>Fiscal effects of changes:</b>          | The bill could lead to an increase in rates charged by health insuring corporations and by sickness and accident insurers as a result of the provision requiring hearing screenings to be covered. Any potential increase in HIC rates could be recovered from local government employees in whole or in part through higher employee share payments or through smaller wage increases. This could potentially increase local costs between \$350,000 and \$800,000.  |

## Bills Passed and Signed into Law for which Local Impact Changed from the Initial Determination

### *Analysis of Changes with Fiscal Impact*

Continuing law requires sickness and accident insurance policies and employee benefit plans that provide coverage for family members and benefits for children to include benefits for child health supervision services for children from birth to age nine. The benefits for child health supervision services that are provided to a child from birth to age one are not required to exceed a maximum of \$500. The act provides that child health supervision services include hearing screenings under the Department of Health's hearing screening program. The coverage for hearing screenings must not exceed \$75 of the \$500 maximum coverage limit.

The bill could lead to an increase in rates charged by health insuring corporations and by sickness and accident insurers as a result of the provision requiring hearing screenings to be covered. To find the possible increase in HIC costs, the total number of children screened (150,916) is multiplied by the cost per test (range between \$30 and \$70 per test). The Legislative Service Commission is estimating that 11.2 percent will be covered by a government employer health insurance plan. The potential increase was determined by taking the percentage of government employer health plans that are covering both state employees and local employees (excluded federal employees). According to June 2001 Bureau of Labor Statistics data, of the 783,800 public employees in Ohio, 21.0 percent are state workers and 68.4 percent are local government employees.

|                                       | Total No. of Newborns | Total Cost Statewide | Cost for Public Employees (11.2 % of total cost) | Cost to Employer |
|---------------------------------------|-----------------------|----------------------|--|------------------|
| State Employees (@\$30 per screening) | 150,916               | \$4,527,480          | \$507,078  | \$106,486        |
| Local Employees (@\$30 per screening) | 150,916               | \$4,527,480          | \$507,078  | \$346,841        |
| State Employees (@\$70 per screening) | 150,916               | \$10,564,120         | \$1,183,181                                      | \$248,468        |
| Local Employees (@\$70 per screening) | 150,916               | \$10,564,120         | \$1,183,181                                      | \$809,296        |

Any potential increase in HIC rates could be recovered from local government employees in whole or in part through higher employee share payments or through smaller wage increases. This could potentially increase local costs between \$350,000 and \$800,000.

Bills Passed and Signed into Law for which Local Impact  
Changed from the Initial Determination

## House Bill 327

**Bill Contents:**

Clarifies certain provisions of the Felony Sentencing Law, corrects the penalty provisions for illegal processing of drug documents, clarifies the eligibility criteria for intervention in lieu of conviction, requires applicants for nurse licensure and dialysis technician certification to have a criminal records check, expands the offense of unauthorized use of property, revises certain provisions of the law governing nurses and dialysis technicians as to licensing or certification, duties, and training, specifies that the members of the Ohio Council for Interstate Adult Supervision serve without compensation but are to be reimbursed for expenses, and extends until July 1, 2002, the date by which the State Criminal Sentencing Commission must recommend changes to the state's criminal forfeiture laws.

**“As Introduced” LIS Determination:**

No - No local cost

**“As Enacted” local impact:**

Yes

**Key changes affecting local impact:**

Clarifies that pleading guilty to a domestic violence offense will be treated identically, in terms of enhancing a future charge of domestic violence, to cases where a defendant enters a no contest plea or is convicted by trial.

**Fiscal effects of changes:**

It appears that a number of domestic violence cases, potentially a relatively large number, will shift from municipal and county courts to common pleas courts where the processing of felony cases is generally considered to be more expensive. The likely effect is that annual county criminal justice expenditures will increase, perhaps more than minimally in larger and more urban jurisdictions.

## Bills Passed and Signed into Law for which Local Impact Changed from the Initial Determination

### *Analysis of Changes with Fiscal Impact*

#### **Domestic violence**

The bill clarifies that pleading guilty to a domestic violence offense will be treated identically, in terms of enhancing a future charge of domestic violence, to cases where a defendant enters a no contest plea or is convicted by trial. It appears that courts currently tend to consider a guilty plea as being a different process than a trial conviction, and repeat domestic violence offenses are widely charged as a misdemeanor of the first degree, which is the same as a first-time domestic violence offense. The net effect of this clarification is that all repeat offenders, including those who previously pleaded guilty to domestic violence offenses, will face a felony of the fifth degree and the more serious sanction intended for a repeat domestic violence offense. In determining the existence of a previous domestic violence conviction, the bill would also include cases in which there was a prior conviction for committing an act of domestic violence in another state or in violation of a similar United States law.

There are currently thousands of cases of domestic violence charges filed annually statewide as misdemeanors in municipal and county courts. The Ohio Criminal Sentencing Commission (OCSC) has data suggesting an estimate of approximately 17,000 annual domestic violence cases. At this time, Legislative Service Commission's fiscal staff cannot precisely estimate the number of repeat offenders that previously pled guilty to a domestic violence offense, but have learned that the vast majority of domestic violence convictions, more than 90%, come as a result of a guilty plea, and that first-time offenders spend an average of eight days in a local jail. Additionally, the OCSC data suggests that, out of the 17,000 estimated annual cases, approximately 5.4%, or around 918 offenders, have evidence of a prior similar conviction. This does not include a small number of additional repeat offenders that migrate to Ohio from other states where they have prior domestic violence convictions. Based on a conversation with the Ohio Prosecuting Attorneys Association, such cases have been a problem in Ohio's counties that border other states.

It seems therefore reasonable to conclude that, as a result of the bill, a number of domestic violence cases, potentially a relatively large number, will shift from municipal and county courts to common pleas courts where the processing of felony cases is generally considered to be more expensive. While it is difficult to predict an exact shift in caseload, some county criminal justice systems' adjudication, prosecution, and indigent defense costs will increase in order to process and resolve additional domestic violence cases.

Local jail costs for counties will likely increase as well. If only ten additional offenders are convicted of a repeat domestic violence offense and are given double the eight-day average jail term of a first-time domestic violence offender, or 16 days, then the cost just for local incarceration (at about \$65 per day statewide) would be in excess of the \$5,000 threshold that LSC fiscal staff typically term "minimal local cost."

Cases shifting out of the misdemeanor system into the felony system also mean that counties will gain court cost and fine revenues. Although an estimate of that revenue is difficult to calculate with much precision at this time, it would appear that these revenue gains are unlikely to exceed minimal annually.

Conversely, municipal criminal justice systems will realize some expenditure savings as cases are elevated into county criminal justice systems, and also lose court cost and fine revenues that would otherwise have been collected. Although it is fairly difficult at this time to put a very precise annual price tag on these local fiscal effects for municipalities, the expected decreases in expenditures and losses in revenues appear unlikely to exceed minimal.

There is no presumption for prison on a felony of the fifth degree. The average time served for offenders actually sentenced to prison for the primary offense of a felony of the fifth degree is 0.69 years. Additional domestic violence offenders are also likely to be sentenced to prison as a result of the bill, thus increasing the Department of Rehabilitation and Correction's incarceration costs. The annual increase in the Department's incarceration costs is difficult to precisely predict at this time, but could easily exceed minimal annually, which means in excess of \$100,000, if 20 or more additional offenders are sentenced to prison annually.

Bills Passed and Signed into Law for which Local Impact  
Changed from the Initial Determination

## House Bill 510

**Bill Contents:**

Amends existing law relative to the operation of the Department of Rehabilitation and Correction, including the treatment of prisoners, the Adult Parole Authority, and the confidentiality of certain reports and information, expands the offense of sexual battery, creates the offense of illegal conveyance of a communications device onto the grounds of a detention facility, and provides for the auditing of community-based correctional facilities.

**“As Introduced” LIS Determination:**

No - minimal cost

**“As Enacted” local impact:**

Yes

**Key changes affecting local impact:**

Provides for the auditing of community-based correctional facilities.

**Fiscal effects of changes:**

It is unclear as to what entity would have to pay for the cost of conducting a performance audit, but appears likely to fall on either DRC or the local judicial corrections board, perhaps even if such an audit is undertaken under the Auditor of State’s own initiative. While the costs associated with a financial audit may not be significant, a performance audit is much more extensive in that it examines how well a CBCF meets its programmatic goals. A performance audit can typically take months to perform and potentially cost in the tens of thousands of dollars to complete.

## Bills Passed and Signed into Law for which Local Impact Changed from the Initial Determination

### *Analysis of Changes with Fiscal Impact*

#### **Auditing of community-based correctional facilities (CBCFs)**

Under the bill, the Auditor of State will be required to: (1) conduct financial audits of CBCFs at least once every two years using Department of Rehabilitation and Correction-supplied quarterly financial reports, and (2) conduct a performance audit of a CBCF at the request of the Department of Rehabilitation and Correction (DRC) or the local judicial corrections board, or may undertake such a performance audit on its own initiative. A performance audit is much more extensive than a financial audit in that it examines how well a CBCF meets its programmatic goals. A performance audit can typically take months to perform and potentially cost in the tens of thousands of dollars to complete. Currently, there are 18 CBCFs located around the state.

Presumably, the Auditor of State will charge the appropriate state agency or local government for the performance of these mandated biennial financial audits and permissive performance audits. As of this writing, it is unclear as to whether the annual costs incurred by the Auditor of State in performing these audits will exceed minimal on an ongoing basis, meaning in excess of \$100,000 annually. It appears that any costs incurred by the Auditor of State in performing these audits are typically charged to one of two funds: (1) Fund 109 (Public Audit Expense-Intrastate) in the case of audits performed for a state agency, and (2) Fund 422 (Public Audit Expense-Local Government) in the case of audits performed for a political subdivision. Auditing service payments from state agencies and local governments are deposited in Fund 109 and Fund 422, respectively.

In terms of costs to DRC, the requirement that it provide the Auditor of State with quarterly financial reports should not generate any additional departmental expenses since it already collects and compiles such data under current accounting practices. In the matter of paying for the costs associated with the performance of financial audits, it appears DRC's intent is that it would ultimately pay for any financial audit costs. As of this writing, it is unclear as to what entity would have to pay for the cost of conducting a performance audit, but appears likely to fall on either DRC or the local judicial corrections board, perhaps even if such an audit is undertaken under the Auditor of State's own initiative.

Bills Passed and Signed into Law for which Local Impact  
Changed from the Initial Determination

## House Bill 530

**Bill Contents:**

Modifies the small county exception to the drawing, summoning, and service of jurors for a court of common pleas, allows the board of trustees of a fire district to issue bonds for certain purposes, allows municipal court judges and county court judges to be paid in biweekly installments, confirms creation of an additional term of the drug court judge of the Hamilton County Court of Common Pleas, creates the Brown County Municipal Court with one full-time judgeship and abolishes the Brown County County Court, continues the authority of the mayor of Georgetown to conduct a mayor's court, creates the Morrow County Municipal Court with one full-time judgeship and abolishes the Morrow County County Court, continues the authority of the mayor of Mount Gilead to conduct a mayor's court, and declares an emergency.

**“As Introduced” LIS Determination:**

No - No local costs

**“As Enacted” local impact:**

Yes

**Key changes affecting local impact:**

Creates the Brown County Municipal Court with one full-time judgeship and abolishes the Brown County County Court, and creates the Morrow County Municipal Court with one full-time judgeship and abolishes the Morrow County County Court.

**Fiscal effects of changes:**

The net fiscal impact on the state will be an expenditure increase of more than \$12,438 annually. The net fiscal impact on Brown County and Morrow County will be an annual expenditure increase of \$36,204 and \$27,535 or more, respectively.

## Bills Passed and Signed into Law for which Local Impact Changed from the Initial Determination

### *Analysis of Changes with Fiscal Impact*

#### **Brown County court changes**

The bill creates the Brown County Municipal Court on February 9, 2003, establishes one full-time judgeship in that court, and simultaneously abolishes the Brown County County Court and its two part-time judgeships on that date.

Under the bill, Brown County will: (1) realize a \$15,046 annual savings in judicial salaries and benefits, and (2) incur an estimated annual increase of \$51,250 in compensation costs for a part-time magistrate. The net fiscal impact of these two expenditure effects on Brown County will be an estimated \$36,204 increase in annual spending. It appears that there will be no other collateral costs or operational expenses associated with the creation of the Brown County Municipal Court, the establishment of a full-time judgeship in that court, and the abolishment of the Brown County County Court.

#### **Morrow County court changes**

The bill creates the Morrow County Municipal Court on January 1, 2003, establishes one full-time judgeship in that court, and simultaneously abolishes the Morrow County County Court and its one part-time judgeship on that date.

Under the bill, Morrow County will experience a net expenditure increase of around \$27,535 annually associated with judicial salaries and other benefits. It appears that there will be no other collateral costs or operational expenses associated with the creation of the Morrow County Municipal Court, the establishment of a full-time judgeship in that court, and the abolishment of the Morrow County County Court.

Bills Passed and Signed into Law for which Local Impact  
Changed from the Initial Determination

**Senate Bill 175**

**Bill Contents:**

Revises the law regarding sexual predator hearings for offenders convicted of a sexually oriented offense but acquitted of a sexually violent predator specification, revises the law regarding Department of Rehabilitation and Correction employees' immunity for acts under the Sex Offender Registration and Notification Law, makes certain importuning violations a sexually oriented offense, expands the sex offender community notification provisions to give more neighbors notice and earlier notice, changes the law regarding sexual predators and certain habitual sex offenders providing a notice to sheriffs of an intent to reside at a premise, increases the amount of prior notice sex offenders must provide relative to changing residence, changes the relevant age of the victim and offender for the offense of importuning, and declares an emergency.

**“As Introduced” LIS Determination:**

No - Minimal cost

**“As Enacted” local impact:**

Yes

**Key changes affecting local impact:**

Expands the category of “neighbors” who must be notified of a sexual predator’s or certain habitual sex offender’s registration. “Neighbors,” which was formerly defined as those living adjacent to the sexual predator’s or certain habitual sex offender’s residence, was changed to those living within 1,000 feet of the residence.

**Fiscal effects of changes:**

The Buckeye State Sheriffs’ Association has indicated that this expansion of the category of “neighbors” could create significant costs in the state’s more urban jurisdictions. In a densely packed urban area, the Buckeye Sheriffs’ Association believes that the number of neighbors that would have to be notified could triple or quadruple.

## Bills Passed and Signed into Law for which Local Impact Changed from the Initial Determination

### *Analysis of Changes with Fiscal Impact*

#### **Community notification**

The bill expands the category of “neighbors” who must be notified of a sexual predator’s or certain habitual sex offender’s registration. The Office of the Attorney General’s Bureau of Criminal Identification and Investigation, which maintains the State Registry of Sex Offenders, has reported that, as of February 25, 2002, of the 7,544 sex offenders registered statewide in Ohio, community notification applied to 965 (862 sexual predators and 103 habitual sex offenders).

In a conversation about the community notification duties of county sheriffs, the Buckeye State Sheriffs’ Association indicated that this expansion of the category of “neighbors” could create significant costs in the state’s more urban jurisdictions. As county sheriffs are generally only notifying neighbors directly adjacent to a sex offender’s residence, in a densely packed urban area, the Buckeye State Sheriffs’ Association believes that the number of neighbors that would have to be notified could triple or quadruple. Currently, this community notification process takes about two hours of a county sheriff’s time per sex offender. It has been suggested that this community notification expansion could increase that amount of time spent on community notification to up to 16 hours per sex offender.

## Local Impact by Political Subdivision

This section contains summary charts of the fiscal effects identified in the final Local Impact Statements for bills enacted in 2002 that were determined to have a local impact. There are four charts, one each for counties, municipalities, townships, and school districts. Wherever possible, an estimate is included as to the net effect on the political subdivision of each piece of enacted legislation. Seventeen of the 20 bills impacted counties, 13 affected municipalities, 10 affected school districts, and 12 affected townships.

### Counties

| <b>Bill</b>     | <b>Time Frame</b> | <b>Revenues</b>   | <b>Expenditures</b>   | <b>Net Effect</b>               |
|-----------------|-------------------|---|---|---------------------------------|
| <b>H.B. 65</b>  | Annual            | Potential loss in FY 2003 and future years  | Potential increase in FY 2003 and future years  | Negative                        |
| <b>H.B. 150</b> | Annual            | -0-   | Potential increase in the hundreds of thousands of dollars in FY 2003 and future years.   | Negative                        |
| <b>H.B. 198</b> | Annual            | Potential gain or loss of up to many thousands of dollars in FY 2004 and future years.                    | Minimal increase or decrease in FY 2004 and future years.   | Indeterminate                   |
| <b>H.B. 327</b> | Annual            | Gain, not likely to exceed minimal  | Increase, possibly exceeding minimal  | Negative                        |
| <b>H.B. 416</b> | Annual            | Potential loss in FY 2003 and future years  | -0-   | Negative                        |
| <b>H.B. 426</b> | Annual            | -0-   | Potential increase  | Negative                        |
| <b>H.B. 490</b> | Annual            | Potential gain, possibly exceeding minimal in some jurisdictions beginning in FY 2004 and in future years | Factors increasing and decreasing costs, with net fiscal effect uncertain, but not likely to exceed minimal in most local jurisdictions               | Varying                         |
| <b>H.B. 499</b> | Annual            | -0-   | Butler county: \$140,482 increase, including a one-time reimbursement of \$55,425 paid to the state; \$85,057 or more annual increase in future years | Negative for Butler county only |
| <b>H.B. 510</b> | Annual            | Potential gain, not likely to exceed minimal  | Potential increase, possibly exceeding minimal in certain counties  | Negative in some counties       |

|                 |        |   |  |               |
|-----------------|--------|---|--|---------------|
| <b>H.B. 530</b> | Annual | -0-   | Potential decrease in jury-related expenditures, could be in the tens of thousands of dollars in certain counties;<br>Brown County (court changes) - Increase of \$36,204 or more;<br>Morrow County (court changes) - Increase of \$27,535 or more;<br>Hamilton County (drug court judge) – Potential savings for FY’s 2003 through 2008; Starting with FY 2009, potential annual increase | Indeterminate |
| <b>S.B. 123</b> | Annual | Potential gain (courts)   | Potential increase of \$432,600 - \$919,300 or more (training costs) in FY 2003; Potential increase (court expenditures)   | Negative      |
| <b>S.B. 134</b> | Annual | -0-   | Potential increase   | Negative      |
| <b>S.B. 144</b> | Annual | \$0.8 million loss in FY 2003 to counties and other local governments; in future years, at least \$1.0 million loss from the tax credits; Potential loss from sales, tangible and personal property tax exemptions. | -0-  | Negative      |
| <b>S.B. 175</b> | Annual | Potential gain, no more than minimal  | Factors increasing and decreasing costs with net fiscal effect uncertain, but more than a minimal increase in some counties possible   | Varying       |

|                 |  |  |   |               |
|-----------------|--|--|---|---------------|
| <b>S.B. 180</b> |  | \$0.1 million loss from changes to the job retention tax credit in FY 2004 to counties and other local governments; Up to \$1.0 million loss depending upon the amount of venture capital tax credits granted and claimed;<br>Annual loss from changes to the job retention tax credit increasing by \$0.1 million per year to \$0.5 million in FY 2007 and thereafter; Potential Loss of Delinquent Tax Revenue | Potential decrease from tax exemption notifications in FY 2004 and future years | Negative      |
| <b>S.B. 223</b> |  | -0-  | Potential increase  | Negative      |
| <b>S.B. 255</b> |  | Potential increase or decrease in county revenues from fees for use of public right of ways  | Potential increase  | Indeterminate |

### Municipalities

| <b>Bill</b>     | <b>Time Frame</b> | <b>Revenues</b>  | <b>Expenditures</b>  | <b>Net Effect</b> |
|-----------------|-------------------|--|--|-------------------|
| <b>H.B. 65</b>  | Annual            | Potential loss in FY 2003 and future years   | -0-  | Negative          |
| <b>H.B. 150</b> | Annual            | -0-  | Potential increase in the hundreds of thousands of dollars in FY 2003 and future years | Negative          |
| <b>H.B. 198</b> | Annual            | Potential gain or loss of up to many thousands of dollars in FY 2004 and future years  | Minimal increase or decrease in FY 2004 and future years                               | Indeterminate     |
| <b>H.B. 329</b> | Annual            | Potential loss from LGF, LGRAF, and LLGSF (Certain cities only; "largest" city with less than 15% total county population); Potential gain from LGF, LGRAF, LLGSF (other municipalities receiving these funds) | -0-  | Varying           |
| <b>H.B. 416</b> | Annual            | Potential loss in FY 2003 and future years   | -0-  | Negative          |
| <b>H.B. 426</b> | Annual            | -0-  | Potential increase   | Negative          |

|                 |        |   |   |          |
|-----------------|--------|---|---|----------|
| <b>H.B. 490</b> | Annual | Potential gain, possibly exceeding minimal in some jurisdictions in FY 2004 and future years  | Factors increasing and decreasing costs, with net fiscal effect uncertain, but not likely to exceed minimal in most local jurisdictions in FY 2004 and future years | Varying  |
| <b>S.B. 123</b> | Annual | Potential gain (courts)   | Potential increase (court expenditures); Potential increase of \$2,265,100 - \$2,962,100 or more to municipalities and townships (training costs) in FY 2003        | Negative |
| <b>S.B. 134</b> | Annual | -0-   | Potential increase  | Negative |
| <b>S.B. 144</b> | Annual | \$0.8 million loss in FY 2003 to municipalities and other local governments; in future years, at least \$1.0 million loss from the tax credits; potential loss from sales, tangible and personal property tax exemptions  | -0-   | Negative |
| <b>S.B. 180</b> | Annual | \$0.1 million loss from changes to the job retention tax credit in FY 2004 to municipalities and other local governments, and up to \$1.0 million loss depending upon the amount of venture capital tax credits granted and claimed;<br>Annual loss from changes to the job retention tax credit increasing by \$0.1 million per year to \$0.5 million in FY 2007 and thereafter in future years; Potential loss from not taxing distributions from S Corporations for municipal corporations; Potential Loss of Delinquent Tax Revenue | Potential decrease from tax exemption notifications in FY 2004 and future years   | Negative |
| <b>S.B. 223</b> |        | -0-   | Potential increase  | Negative |
| <b>S.B. 255</b> |        | Potential increase or decrease in municipal revenues from fees for use of public right of ways  | Potential increase  | Negative |

**School Districts**

| <b>Bill</b>     | <b>Time Frame</b> | <b>Revenues</b>   | <b>Expenditures</b>  | <b>Net Effect</b> |
|-----------------|-------------------|---|--|-------------------|
| <b>H.B. 65</b>  | Annual            | Potential loss in FY 2003 and future years  | -0-  | Negative          |
| <b>H.B. 150</b> | Annual            | -0-   | Potential increase in the hundreds of thousands of dollars in FY 2003 and future years | Negative          |
| <b>H.B. 198</b> | Annual            | Potential gain or loss of up to many thousands of dollars                         | Minimal increase or decrease   | Indeterminate     |
| <b>H.B. 364</b> | Annual            | Loss depending on the number of new community schools established                 | Decrease depending on the number of new community schools established                  | Varying           |
| <b>H.B. 384</b> | Annual            | -0-   | Potential increase of up to \$250,000 (statewide)                                      | Negative          |
| <b>H.B. 416</b> | Annual            | Potential gain or loss in FY 2003 and future years                                | -0-  | Indeterminate     |
| <b>H.B. 426</b> | Annual            | -0-   | Potential increase   | Negative          |
| <b>S.B. 144</b> | Annual            | Potential loss from tangible and personal property tax exemptions in future years | -0-  | Negative          |
| <b>S.B. 180</b> | Annual            | Potential Loss of Delinquent Tax Revenue  | Potential decrease from tax exemption notifications in FY 2004 and future years        | Indeterminate     |
| <b>S.B. 223</b> |                   | -0-   | Potential increase   | Negative          |

**Townships**

| <b>Bill</b>     | <b>Time Frame</b> | <b>Revenues</b>   | <b>Expenditures</b>  | <b>Net Effect</b> |
|-----------------|-------------------|---|--|-------------------|
| <b>H.B. 65</b>  | Annual            | Potential loss in FY 2003 and future years  | -0-  | Negative          |
| <b>H.B. 150</b> | Annual            | -0-   | Potential increase ranging in the hundreds of thousands of dollars in FY 2003 and future years | Negative          |
| <b>H.B. 198</b> | Annual            | Potential gain or loss of up to many thousands of dollars in FY 2004 and future years | Minimal increase or decrease in FY 2004 and future years                                       | Indeterminate     |
| <b>H.B. 416</b> | Annual            | Potential loss in FY 2003 and future years  | -0-  | Negative          |
| <b>H.B. 426</b> | Annual            | -0-   | Potential increase   | Negative          |

|                 |        |   |   |                            |
|-----------------|--------|---|---|----------------------------|
| <b>H.B. 530</b> | Annual | Potential gain, up to amount of bonds issued  | Potential increase in debt service costs, magnitude largely determined by amount and duration of bonds, plus potential one-time minimal debt issuance costs | Indeterminate (Permissive) |
| <b>S.B. 123</b> | Annual | -0-   | Potential increase of \$2,265,100 - \$2,962,100 or more to municipalities and townships in FY 2003  | Negative                   |
| <b>S.B. 134</b> | Annual | -0-   | Potential increase  | Negative                   |
| <b>S.B. 144</b> | Annual | \$0.8 million loss in FY 2003 to townships and other local governments; in future years, at least \$1.0 million loss from the tax credits; potential loss from sales, tangible and personal property tax exemptions   | -0-   | Negative                   |
| <b>S.B. 180</b> | Annual | \$0.1 million loss from changes to the job retention tax credit in FY 2004 to townships and other local governments; Up to \$1.0 million loss depending upon the amount of venture capital tax credits granted and claimed;<br>Annual loss from changes to the job retention tax credit increasing by \$0.1 million per year to \$0.5 million in FY 2007 and thereafter in future years; Potential loss of delinquent tax revenue | Potential decrease from tax exemption notifications in FY 2004 and future years   | Negative                   |
| <b>S.B. 223</b> | Annual | -0-   | Potential increase  | Negative                   |
| <b>S.B. 255</b> | Annual | Potential increase in township revenues from fees for use of public right of ways; Increase in township revenues due to an increase in the permit application fee for township highway right of way excavation.   | Potential increase  | Indeterminate              |

## **Part II**

# **Local Impact Statements**

***Presentation of 2002 Fiscal Notes & Local Impact Statements  
(Includes Bills with Altered Local Impact)***

| <b>Bill</b>     | <b>Local Impact<br/>As Introduced</b> | <b>Local Impact<br/>As Enacted</b> | <b>Page<br/>Number</b> |
|-----------------|---------------------------------------|------------------------------------|------------------------|
| <b>H.B. 65</b>  | <b>Yes</b>                            | <b>Yes</b>                         | <b>35</b>              |
| <b>H.B. 70</b>  | <b>Yes</b>                            | <b>No</b>                          | <b>40</b>              |
| <b>H.B. 150</b> | <b>No</b>                             | <b>Yes</b>                         | <b>43</b>              |
| <b>H.B. 198</b> | <b>Yes</b>                            | <b>Yes</b>                         | <b>49</b>              |
| <b>H.B. 221</b> | <b>Yes</b>                            | <b>No</b>                          | <b>53</b>              |
| <b>H.B. 327</b> | <b>No</b>                             | <b>Yes</b>                         | <b>56</b>              |
| <b>H.B. 329</b> | <b>Yes</b>                            | <b>Yes</b>                         | <b>63</b>              |
| <b>H.B. 364</b> | <b>Yes</b>                            | <b>Yes</b>                         | <b>67</b>              |
| <b>H.B. 384</b> | <b>Yes</b>                            | <b>Yes</b>                         | <b>73</b>              |
| <b>H.B. 416</b> | <b>Yes</b>                            | <b>Yes</b>                         | <b>75</b>              |
| <b>H.B. 426</b> | <b>Yes</b>                            | <b>Yes</b>                         | <b>79</b>              |
| <b>H.B. 490</b> | <b>Yes</b>                            | <b>Yes</b>                         | <b>83</b>              |
| <b>H.B. 499</b> | <b>Yes</b>                            | <b>Yes</b>                         | <b>91</b>              |
| <b>H.B. 510</b> | <b>No</b>                             | <b>Yes</b>                         | <b>95</b>              |
| <b>H.B. 515</b> | <b>Yes</b>                            | <b>No</b>                          | <b>102</b>             |
| <b>H.B. 530</b> | <b>No</b>                             | <b>Yes</b>                         | <b>104</b>             |
| <b>S.B. 123</b> | <b>Yes</b>                            | <b>Yes</b>                         | <b>115</b>             |
| <b>S.B. 134</b> | <b>Yes</b>                            | <b>Yes</b>                         | <b>129</b>             |
| <b>S.B. 144</b> | <b>Yes</b>                            | <b>Yes</b>                         | <b>132</b>             |
| <b>S.B. 175</b> | <b>No</b>                             | <b>Yes</b>                         | <b>137</b>             |
| <b>S.B. 180</b> | <b>Yes</b>                            | <b>Yes</b>                         | <b>145</b>             |
| <b>S.B. 223</b> | <b>Yes</b>                            | <b>Yes</b>                         | <b>154</b>             |
| <b>S.B. 255</b> | <b>Yes</b>                            | <b>Yes</b>                         | <b>156</b>             |



## ***Local Fiscal Highlights***

| <b>LOCAL GOVERNMENT</b>                             | <b>FY 2002</b> | <b>FY 2003</b>     | <b>FUTURE YEARS</b> |
|---|----------------|--------------------|---------------------|
| <b>School Districts and Other Local Governments</b> |                |                    |                     |
| Revenues  | - 0 -          | Potential loss     | Potential loss      |
| Expenditures  | - 0 -          | - 0 -              | - 0 -               |
| <b>Counties</b>                                     |                |                    |                     |
| Revenues  | - 0 -          | Potential loss     | Potential loss      |
| Expenditures  | - 0 -          | Potential increase | Potential increase  |

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- This bill proposes to exempt from taxation real and tangible personal property held or occupied by any veterans' organization that does not generate an annual gross income greater than the specified amount. For tax year 2002, the specified amount is \$7,500. The amount will increase by \$250 each year until 2012, when it will equal \$10,000. In tax year 2013 and thereafter, the designated amount will be \$10,000.
- Due to the income requirements listed in the bill, the administration of the exemptions could be time-consuming for county auditors resulting in an increase in expenditures.
- School districts and other local governments stand to lose revenue from property taxes due to the exemptions granted in the bill. Statewide, school districts benefit from 60% of all property taxes levied. The remaining 40% benefit other local governments, such as counties and municipalities.
- As a result of the property tax exemptions, most school districts could see an increase in base cost funding, which is funded by the state. This is due to the reduction in the taxable property valuation. School districts that are "on the guarantee" would not see an increase in funding.

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## ***Detailed Fiscal Analysis***

Currently, real and tangible personal property held or occupied by a war veterans' organization is exempted from property taxation, but only if the veterans' organization is organized exclusively for charitable purposes. In the case of real property, it may be exempted from taxation only if it is not held for producing rental income. The bill expands the current exemption to include property held or occupied by any veterans' organization that is exempted from federal income taxation under I.R.C. 501(c)(19) or (c)(23) and does not have an annual gross income greater than the specified amount. For tax year 2002, the specified amount is \$7,500. The amount will increase by \$250 each year until 2012, when it will equal \$10,000. In tax year 2013 and thereafter, the designated amount will be \$10,000.

A veteran's organization qualifies for federal tax exemption under 501(c)(19) if it satisfies all of the following criteria: (1) at least 75% of the members are past or present members of the United States Armed Forces, and most of the remaining members are cadets, or the spouses, widows, or widowers of members or cadets, (2) it is nonprofit in the sense that none of the organization's net earnings (if any) inure to the benefit of a private person, and (3) it is organized in the United States or a U.S. possession. A veterans' organization qualifies for federal tax exemption under section 501(c)(23) if it satisfies all of the following: (1) at least 75% of the members are past or present members of the United States Armed Forces, (2) its principal purpose is to provide insurance and other benefits for veterans or their dependents, and (3) it was an association organized before 1880.

Evaluating an organization's income in light of the income limits that would qualify the organization for a tax exemption under the bill could be time-consuming for county auditors. This process could result in an increase in expenditures.

The effects of this bill on school districts and local governments, as well as the State GRF, depend largely on the number of organizations that would qualify for this exemption and the value of property those organizations own or occupy. The specific tax rates of the associated taxing districts would also have an impact.

According to the Internal Revenue Service's 1998 Data Book, 35,684 organizations were exempt under I.R.C. 501(c) 19 and (c) 23 in 1998. Based on the assumption that these are proportionally located throughout the U.S., LSC estimates 1,570 of these organizations are located in Ohio. (Ohio makes up 4.4% of the U.S. population.  $35,684 \times 4.4\% = 1,570.096$ .) The income levels of such organizations are unknown, and are likely to vary greatly, as the property values owned by organizations do. Table 1 displays some examples of the disparate property values of some of the veterans' organizations in Ohio that might qualify for the tax exemption under the bill.

| <b>Table 1: Examples of Property Owned by Veterans' Organizations, The 2001 Assessed Value and 2001 Property Taxes Due</b> |                 |                                |                  |
|--|-----------------|--------------------------------|------------------|
| <b>Organization</b>  | <b>Location</b> | <b>Assessed Property Value</b> | <b>Taxes Due</b> |
| American Legion Post 304   | Cleveland       | \$94,800                       | \$2,314          |
| Amvets Post 24   | Dayton          | \$18,900                       | \$491            |
| American Legion Post 121   | Fremont         | \$283,879                      | \$3,452          |
| Veterans of Foreign Wars Post 8402   | Jackson         | \$93,440                       | \$1,311          |
| Disabled American Veterans Chapter 45  | Jackson         | \$188,160                      | \$2,641          |
| American Legion Post 83  | Sandusky        | \$1,035,130                    | \$19,831         |

*Assuming that the average tax bill for properties owned or occupied by veterans' organizations is \$2,500 and that half of the 1,570 Ohio organizations have an annual income of less than \$7,500, the bill would reduce real property tax revenue by \$1.96 million for tax year 2002 ((1,570 / 2)\* \$2,500 = \$1.96 million). The loss would increase in subsequent years as the qualifying income level increases.*

Because property taxes benefit school districts and other local governments, they stand to see the largest fiscal effect of the proposed exemptions. However, the state GRF will also be affected by such property tax exemptions, although these effects will be relatively minimal. The 10% rollback on real property taxes and the state base cost funding for Ohio schools are both financed by the GRF. By reducing the amount of property taxes due, the amount of the rollback is also reduced. On the other hand, the exemption leads to a lower property tax valuation in the corresponding school district, and this may cause the state's base cost funding payments to the school district to increase. Table 2, below, demonstrates the fiscal effects of three hypothetical tax exemptions for property owned or occupied by veterans' organizations with a gross income less than the designated amount.

Example A displays the typical effects of a \$40,000 property exempt from property taxation. Example B displays the typical effects of a \$200,000 property exempt from property taxation. Example C displays the typical effects of a \$1,000,000 property exempt from property taxation.

As shown in example B, a property with a true market value of \$200,000 has an assessment value of \$70,000, or 35% of the true market value. Using the state average effective tax rate on class II real property, this property would generate \$4,040 in property tax revenue. (Due to the 10% rollback, the property owner would pay \$3,636 of this and the GRF would pick up the remaining \$404.)

With the property tax exemption no tax revenue would be generated by this property. Approximately 60% of real property taxes benefit school districts, while the remaining 40% benefit other local governments such as counties and municipalities. Thus, the exemption of a property with a value of \$200,000 will reduce property tax revenue for a school district by approximately \$2,424. It will reduce property tax revenue for other local governments by approximately \$1,616. At the same time, the GRF saves \$404. An additional wrinkle is added by the impact of the reduced property value on school funding and the calculation of state base cost funding. The exemption reduces the total

property value in the school district by \$70,000 - thus increasing the base cost funding to the school district by \$1,610.

The net effect of the exemption in example B is a loss to the school district of \$814, a loss to the other local governments of \$1,616, and an additional cost to the GRF of \$1,206.

| <b>Table 2: Examples of Tax Exemptions for Real Property Owned or Occupied by Veterans' Organizations</b> |                  |                  |                  |
|---|------------------|------------------|------------------|
|   | <b>Example A</b> | <b>Example B</b> | <b>Example C</b> |
| Property Value  | \$40,000         | \$200,000        | \$1,000,000      |
| Assessed Value  | \$14,000         | \$70,000         | \$350,000        |
| 2000 State Average "Effective Tax Rate" For Class II Real Property  | 57.71 Mills      | 57.71 Mills      | 57.71 Mills      |
| <b>Tax Revenue</b>  |                  |                  |                  |
| <b>Taxes Due Without Exemption</b>  |                  |                  |                  |
| <i>Total Taxes</i>  | \$808            | \$4,040          | \$20,199         |
| <i>Portion Paid by Taxpayer</i>   | \$727            | \$3,636          | \$18,179         |
| <i>Portion Paid by State</i>  | \$81             | \$404            | \$2,020          |
| <b>Loss of Tax Revenue Due to Exemption</b>   |                  |                  |                  |
| <i>School District Loss</i>   | \$485            | \$2,424          | \$12,119         |
| <i>Other Local Government Loss</i>  | \$323            | \$1,616          | \$8,079          |
| <b>Increase in Base Funding Due to Exemption</b>  | \$322            | \$1,610          | \$8,050          |
| <b>Net Effect of the Tax Exemption</b>  |                  |                  |                  |
| Net Loss to School Districts  | \$163            | \$814            | \$4,069          |
| Net Loss to Other Local Governments   | \$323            | \$1,616          | \$8,079          |
| Net Cost to the GRF   | \$241            | \$1,206          | \$6,030          |

**This bill proposes to exempt from taxation both real and tangible personal property. The discussion above has been focused on real property. This is because LSC found no examples of veterans' organizations that pay tangible personal property taxes.**

*LSC fiscal staff: Nickie Ringer, Economist*

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## ***Local Fiscal Highlights***

| LOCAL GOVERNMENT                              | FY 2003                    | FY 2004                    | FUTURE YEARS               |
|---|----------------------------|----------------------------|----------------------------|
| <b>Counties, Municipalities and Townships</b> |                            |                            |                            |
| Revenues                                      | - 0 -                      | - 0 -                      | - 0 -                      |
| Expenditures                                  | Potential minimal increase | Potential minimal increase | Potential minimal increase |

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- Potential minimal increase in expenditures for some local governments for engineering studies and consultant fees for the projects allowed by this bill.

## ***Detailed Fiscal Analysis***

The bill includes a new provision in the definition of capital improvements in section 164.01 of the Revised Code. The new provision includes appurtenances to roads and bridges to enhance the safety of animal-drawn vehicles, pedestrians and bicycles. The bill also eliminates the provision that defines flood control systems as a capital improvement.

According to existing section 164.06 of the Revised Code, district public works integrating committees shall evaluate materials submitted to it by the local subdivisions located in the district concerning capital improvements for which assistance is sought from the state capital improvements fund, and shall submit requests for financial assistance that will be formally submitted by the district to the director of the Ohio Public Works Commission.

According to the section 164.05 of the Revised Code, the Director of the Ohio Public Works Commission shall approve requests for financial assistance from district public works integrating committees and enter into agreements with one or more local subdivisions to provide loans, grants, local debt support and credit enhancements for a capital improvement projects. No local governments are guaranteed funds.

According to section 164.02 of the Revised Code, members of district public works committees are appointed to the integrating committee pursuant to the majority vote of the chief executive officers of the villages of the appointee's district or by a majority of the boards of township trustees of the appointee's district.

The state will experience no net effect to the distribution of grants, loans, and debt support from CAP-150, Local Public Infrastructure, for projects involving the construction of appurtenances to roads and bridges to enhance the safety of animal-drawn vehicles, pedestrians, and bicycles. Furthermore the state will experience no net effect to CAP-150, Local Public Infrastructure fund from the loss of flood control system projects.

The state will incur no net effect to fund CAP-151, Revolving Loan. The Revolving Loan Fund consists of all repayments of loans made to local subdivisions for capital improvements, investment earnings on moneys in the fund, and moneys obtained from federal or private grants or from other sources for the purpose of making loans for the purpose of financing or assisting in the financing of the cost of capital improvement projects of local subdivisions.

Line item 150-321, Operating Expenses (Fund 038) may incur potential minimal costs, if any, associated with the additional provisions of the bill. The Director of Public Works and staff members may incur minimal costs associated with the need for filing and the procedures for approving requests for financial assistance. The Public Works Commission will likely absorb any increased costs. Line item 150-321, Operating Expenses (Fund 038), pays for the administrative costs of the State Capital Improvement Program, and supports about 70% of its operations.

Local governments may incur additional permissive costs such as engineering studies and consultant fees since local governments may *choose* to submit materials to the district public works integrating committee for projects involving construction of appurtenances to roads and bridges to enhance the safety of animal-drawn vehicles, pedestrians and bicycles.

*LSC fiscal staff: Jonathan Lee, Budget Analyst*

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- According to the Children’s Defense Fund’s *2001 Children in the States*, for the period covering 1997-1999, 10% of Ohioans under age 19 did not have health insurance. If one assumes that this 10% is evenly spread among age cohorts, there would be about 15,000 births per year in which a third party payer did not cover the hearing screening. However, LSC is unable to precisely determine the portion of newborns that would have no third party coverage of the screening *and* whose family is financially unable to afford the screening.
- Legislative Service Commission estimates that the Department of Health would be required to cover the cost of the hearing screening for up to 15,000 births per year. The total increase in cost would range from \$75,000 to \$675,000.
- Other DOH costs under the bill involve the preparation and distribution of materials to hospitals, freestanding birthing centers, and each local board of health on the importance of hearing screening and evaluation. Under current law, the Department is required to provide information to hospitals and freestanding birthing centers describing factors or conditions of hearing loss. Since the Department would only need to modify its existing publications, the added costs would be minimal. These costs would be borne in the Department’s Medically Handicapped Children program, which is funded with both GRF and State Special Revenue Fund 666.
- Other potential DOH costs include a provision allowing the Department to make mass purchases of hearing screening equipment or establishing a grant program, if funds are available.
- The bill requires rules to be adopted no later than six months after the effective date of the bill and states that hospitals and freestanding birthing centers must follow the provisions of the bill covering hearing screenings, with certain exemptions, no later than June 30, 2004. Therefore, the fiscal effect of this bill will not begin until fiscal year 2003 at the earliest and potentially not until fiscal year 2004.
- Under the rules to be adopted, hospitals and freestanding birthing centers will be required to submit hearing screening information to the Department of Health. In addition, the Department will be required to conduct timely reviews of these submissions.
- The state may experience an increase in the cost of providing health benefits to workers with family coverage through the Ohio Med plan. This benefit may already be covered by the plan, but LSC has not had time to confirm that with DAS. The costs of the bill could increase GRF expenditures by up to approximately \$250,000 per fiscal year. This potential cost increase could be recovered from state employees in whole or in part through higher employee share payments or through smaller wage increases.

### ***Local Fiscal Highlights***

| LOCAL GOVERNMENT   | FY 2002 | FY 2003   | FUTURE YEARS  |
|--|---------|---|---|
| <b>Boards of Health</b>  |         |   |   |
| Revenues   | - 0 -   | - 0 -   | - 0 -   |
| Expenditures   | - 0 -   | Minimal increase  | Minimal increase  |
| <b>Counties, Municipalities, Townships, and School Districts</b> |         |   |   |
| Revenues   | - 0 -   | - 0 -   | - 0 -   |
| Expenditures   | - 0 -   | Potential increase ranging from<br>\$350,000 to \$800,000 | Potential increase ranging from<br>\$350,000 to \$800,000 |

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- Under the bill, local boards of health are required to provide the information produced by the Department of Health regarding the importance of hearing screenings to the parents of children born in the area served by the board of health who were not born in a hospital or freestanding birthing center. For the years 1995 through 1999, the average number of annual births occurring outside of a hospital or freestanding birthing center was 1,231, or 0.81% of total average annual births for this period. Therefore, local boards of health should incur a minimal increase in expenditures to comply with this provision.
- The bill could lead to an increase in rates charged by health insuring corporations and by sickness and accident insurers as a result of the provision requiring hearing screening to be a covered service. Any potential increase in HIC rates could be recovered from local government employees in whole or in part through higher employee share payments or through smaller wage increases. This could potentially increase local costs between \$350,000 and \$800,000.

### ***Detailed Fiscal Analysis***

The bill requires a hearing screening for all newborns born in a hospital or freestanding birthing center. According to the Ohio Department of Health (DOH) Data Warehouse, in 1999 there were 151,596 births in Ohio. For the past few years, the number of hospital births in Ohio has been around 150,000. The following table lists the number of births in Ohio from 1990 through 1998.

| Year | Location of Birth |      |       |     |                     |     |       |     | Total<br># |
|------|-------------------|------|-------|-----|---------------------|-----|-------|-----|------------|
|      | Hospital          |      | Home  |     | Non-Hospital Clinic |     | Other |     |            |
|      | #                 | %    | #     | %   | #                   | %   | #     | %   | #          |
| 1999 | 148,838           | 98.2 | 625   | 0.4 | 649                 | 0.4 | 1,484 | 1.0 | 151,596    |
| 1998 | 150,843           | 98.9 | 963   | 0.6 | 641                 | 0.4 | 10    | 0.0 | 152,457    |
| 1997 | 149,847           | 99.0 | 956   | 0.6 | 567                 | 0.4 | 19    | 0.0 | 151,389    |
| 1996 | 149,917           | 98.9 | 996   | 0.7 | 605                 | 0.4 | 27    | 0.0 | 151,545    |
| 1995 | 152,131           | 98.9 | 1,034 | 0.7 | 542                 | 0.4 | 40    | 0.0 | 153,747    |
| 1994 | 154,192           | 99.0 | 955   | 0.6 | 546                 | 0.4 | 41    | 0.0 | 155,734    |
| 1993 | 157,321           | 99.1 | 909   | 0.6 | 510                 | 0.3 | 33    | 0.0 | 158,773    |
| 1992 | 160,530           | 99.1 | 902   | 0.6 | 526                 | 0.3 | 32    | 0.0 | 161,990    |
| 1991 | 164,087           | 99.2 | 862   | 0.5 | 402                 | 0.2 | 38    | 0.0 | 165,389    |
| 1990 | 165,423           | 99.2 | 869   | 0.5 | 373                 | 0.2 | 21    | 0.0 | 166,686    |

Source: Ohio Department of Health Data Warehouse

For the period covering 1995 through 1999, the average annual number of births that occurred in Ohio was 152,147. Of this total, 150,916 occurred in a hospital or non-hospital clinic (99.19%) and 1,231 occurred at home or a location other than a hospital or non-hospital clinic (0.81%).

### **Impact on Medicaid**

According to the Ohio Department of Job and Family Services (JFS), the impact of this bill on the Medicaid program should be minimal. Current law in Ohio requires each hospital to screen for hearing impairments through the use of a high-risk questionnaire. According to JFS, this paper test costs approximately \$25 per screening.

Under the bill, a hearing screening involves the use of automated or diagnostic auditory brainstem response, otoacoustic emissions, or an equivalent physiologic technology. The Department of Job and Family Services stated that these tests cost between \$35 and \$70 per screening. According to JFS, the existing Medicaid reimbursement rates for the hearing screening Diagnostic Related Group (DRG) are adequate to cover the additional costs associated with the technological screenings required in the bill.

Approximately 35% – 40% of all births in Ohio are eligible for Medicaid reimbursement. This covers about 60,000 births per year. Additionally, hospitals providing hearing screening that are not reimbursed via a third party payer can bill through the hospital care assurance program (HCAP) for coverage.

### **Impact on Department of Health**

The bill requires the Department of Health to reimburse any hospital or freestanding birthing center that provides a hearing screening to a newborn if the parents or guardians of the newborn are financially unable to pay for the hearing screening *and* if no third party payer reimburses the facility for the hearing screening.

According to information obtained from the [Children's Defense Fund's 2001 Children in the States](#), 10% of Ohioans under the age of 19 in the period covering 1997-1999 have no health insurance. If one assumes that this 10% is spread evenly among age cohorts, there would be about 15,000 births per year in which a third party payer did not cover the hearing screening. However, LSC is unable to precisely determine the portion of newborns that would have no third party coverage of the screening *and* whose family is financially unable to afford the screening.

Under current law, newborn hearing screenings consist of a paper questionnaire. The paper test costs about \$25 per newborn. The hearing screenings required under this bill are estimated to cost between \$30 and \$70 per screening. This means that the estimated net increase to the Department of Health is between \$5 and \$45 per screening. If all 15,000 uninsured children also come from families who are unable to afford the screening, the added cost to DOH would be between \$75,000 and \$675,000. This figure was obtained by multiplying \$5 and \$45 by 15,000 (estimated number of uninsured children). However, as noted above, LSC is unable to quantify the specific number of screenings that would be reimbursed by DOH for uninsured children.

The bill also requires the Department to prepare and distribute materials to hospitals, freestanding birthing centers, and local boards of health on the importance of hearing screening and evaluation. Under current law, the Department is required to provide information to hospitals and freestanding birthing center describing factors or conditions of hearing loss. Since the Department would only need to modify its existing publications, the added costs would be minimal. These costs would be borne in the Department's Medically Handicapped Children program, which is funded with both GRF and State Special Revenue Fund 666.

Other potential DOH costs include a provision allowing the Department to make mass purchases of hearing screening equipment or establishing a grant program, if funds are available.

The bill requires rules to be adopted no later than six months after the effective date of the bill and states that hospitals and freestanding birthing centers must follow the provisions of the bill covering hearing screenings no later than June 30, 2004, with certain exceptions. In these situations, the Department may grant a one-year extension for the hospital or freestanding birthing center to comply with the provisions of this bill. Therefore, the fiscal effect of this bill will not begin until fiscal year 2003 at the earliest and potentially not until fiscal year 2004. When including the 90-day delay in the effective date of the bill, six months after the effective date of the bill would mean that rules would not need to take effect until FY 2003. Therefore, all facilities would not be required to give the hearing screening required in the bill until FY 2004 at the latest. This does not mean, however, that no facility will provide the screenings during FY 2003. But, LSC is unable to determine what percent of facilities would provide the screenings beginning in FY 2003 and what percent would begin in FY 2004.

In addition, hospitals and freestanding birthing centers will be required to submit hearing screening information to the Department of Health. In addition, the Department will be required to conduct timely reviews of these submissions.

### **Impact on Local Boards of Health**

Under the bill, local boards of health are required to provide the information produced by the Department of Health regarding the importance of hearing screenings to the parents of children born in the area served by the board of health who were not born in a hospital or freestanding birthing center. For the years 1995 through 1999, the average number of annual births occurring outside of a hospital or freestanding birthing center was 1,231, or 0.81% of total average annual births for this period. Therefore, local boards of health should incur a minimal increase in expenditures to comply with this provision.

### **Impact on Health Insurance**

Continuing law requires sickness and accident insurance policies and employee benefit plans that provide coverage for family members and benefits for children to include benefits for child health supervision services for children from birth to age nine. The benefits for child health supervision services that are provided to a child from birth to age one are not required to exceed a maximum of \$500. The act provides that child health supervision services include hearing screenings under the Department of Health's hearing screening program. The coverage for hearing screenings must not exceed \$75 of the \$500 maximum coverage limit.

The state, local governments, and school districts may experience an increase in the cost of providing health benefits to workers with family coverage through the Ohio Med plan. This benefit may already be covered by the plan, but LSC has not had time to confirm that with DAS. The costs of the bill could increase GRF expenditures by up to approximately \$250,000 per fiscal year. To find the possible increase in HIC costs, the total number of children screened (150,916) is multiplied by the cost per test (range between \$30 and \$70 per test). The Legislative Service Commission is estimating that 11.2% will be covered by a government employer health insurance plan. The potential increase was

determined by taking the percentage of government employer health plans that are covering both state employees and local employees (excluded federal employees). According to June 2001 Bureau of Labor Statistics data, of the 783,800 public employees in Ohio, 21.0% are state workers and 68.4% are local government employees.

|  | <b>Total No. of Newborns</b> | <b>Total Cost Statewide</b> | <b>Cost for Public Employees (11.2 % of total cost)</b> | <b>Cost to Employer</b> |
|--|------------------------------|-----------------------------|---|-------------------------|
| <b>State Employees (@\$30 per screening)</b> | 150,916                      | \$4,527,480                 | \$507,078   | \$106,486               |
| <b>Local Employees (@\$30 per screening)</b> | 150,916                      | \$4,527,480                 | \$507,078   | \$346,841               |
| <b>State Employees (@\$70 per screening)</b> | 150,916                      | \$10,564,120                | \$1,183,181   | \$248,468               |
| <b>Local Employees (@\$70 per screening)</b> | 150,916                      | \$10,564,120                | \$1,183,181   | \$809,296               |

Any potential increase in HIC rates could be recovered from government employees in whole or in part through higher employee share payments or through smaller wage increases. This could potentially increase local costs between \$350,000 and \$800,000.

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## ***Detailed Fiscal Analysis***

### **Delinquent Property Tax Distributions**

Under current law, each taxing district is entitled to its proportionate share of that year's delinquent property tax collection, minus a five percent county administration cost. The proportionate share is determined in the year the taxes were due and is the percentage of the total tax collections that the district is entitled to relative to all other taxing districts that tax the same property. H.B. 198 proposes to distribute delinquent tax collections based on the current year's proportionate share of tax collections instead of the proportion in the year of delinquency.

The fiscal impact of the bill will result in some tax districts receiving more or less revenue in comparison to the current distribution system. The State of Ohio has approximately 4,100 tax districts. These tax districts are not unique and therefore overlap, creating a much higher permutation of tax rates on individual parcels of property.

According to the Department of Taxation, total delinquencies in calendar year 2000 were \$985.0 million, a 10.9% increase from the 1999 total of \$888.0 million. Real and public utility personal property delinquencies comprised \$598.7 million of the CY 2000 delinquencies while tangible personal property delinquencies amounted to \$309.4 million. Special assessment delinquencies totaled \$76.9 million. The table below lists total property tax delinquencies by county.

**Delinquent Property Taxes Due and Payable in CY 2000**

| <i>County</i> | <i>Delinquent Taxes</i> | <i>County</i> | <i>Delinquent Taxes</i> |
|---------------|-------------------------|---------------|-------------------------|
| Adams         | \$1,077,408             | Licking       | \$5,991,914             |
| Allen         | 6,597,883               | Logan         | 3,689,274               |
| Ashland       | 2,012,741               | Lorain        | 15,074,857              |
| Ashtabula     | 6,690,224               | Lucas         | 37,435,568              |
| Athens        | 2,238,324               | Madison       | 1,116,372               |
| Auglaize      | 1,442,714               | Mahoning      | 71,254,015              |
| Belmont       | 4,038,437               | Marion        | 3,707,980               |
| Brown         | 1,820,464               | Medina        | 7,465,315               |
| Butler        | 11,948,794              | Meigs         | 2,055,506               |
| Carroll       | 984,543                 | Mercer        | 749,092                 |
| Champaign     | 2,633,985               | Miami         | 4,233,452               |
| Clark         | 8,600,157               | Monroe        | 651,601                 |
| Clermont      | 9,926,535               | Montgomery    | 59,259,985              |
| Clinton       | 1,878,316               | Morgan        | 470,396                 |
| Columbiana    | 5,695,116               | Morrow        | 2,280,485               |
| Coshocton     | 5,047,066               | Muskingum     | 7,852,426               |
| Crawford      | 2,155,596               | Noble         | 971,930                 |
| Cuyahoga      | 211,885,862             | Ottawa        | 2,513,952               |

**Delinquent Property Taxes Due and Payable in CY 2000**

| <i>County</i> | <i>Delinquent Taxes</i> | <i>County</i> | <i>Delinquent Taxes</i> |
|---------------|-------------------------|---------------|-------------------------|
| Darke         | 1,203,836               | Paulding      | 649,955                 |
| Defiance      | 1,128,526               | Perry         | 3,562,965               |
| Delaware      | 6,586,814               | Pickaway      | 3,271,199               |
| Erie          | 5,731,324               | Pike          | 1,958,068               |
| Fairfield     | 4,868,089               | Portage       | 6,702,390               |
| Fayette       | 1,149,899               | Preble        | 1,544,055               |
| Franklin      | 76,481,683              | Putnum        | 457,677                 |
| Fulton        | 926,234                 | Richland      | 11,068,617              |
| Gallia        | 970,656                 | Ross          | 2,188,065               |
| Geauga        | 6,401,754               | Sandusky      | 2,059,123               |
| Greene        | 7,690,086               | Scioto        | 4,548,663               |
| Guernsey      | 3,635,633               | Seneca        | 1,059,644               |
| Hamilton      | 70,798,056              | Shelby        | 1,643,521               |
| Hancock       | 2,699,394               | Stark         | 29,504,609              |
| Hardin        | 1,056,516               | Summit        | 36,653,822              |
| Harrison      | 1,528,478               | Trumbull      | 23,295,212              |
| Henry         | 3,746,975               | Tuscarawas    | 4,554,903               |
| Highland      | 1,082,326               | Union         | 2,839,316               |
| Hocking       | 1,345,395               | Van Wert      | 971,364                 |
| Holmes        | 1,042,846               | Vinton        | 543,402                 |
| Huron         | 2,236,290               | Warren        | 7,186,753               |
| Jackson       | 2,544,590               | Washington    | 2,173,448               |
| Jefferson     | 15,218,219              | Wayne         | 4,910,330               |
| Knox          | 2,452,788               | Williams      | 1,018,948               |
| Lake          | 83,999,425              | Wood          | 5,814,086               |
| Lawrence      | 4,295,851               | Wyandot       | 504,487                 |

Given the cumulative history of the reported delinquent property tax data and the thousands of possible tax rates, LSC did not estimate the potential future fiscal impacts of redistributing delinquent property tax collections. The table below illustrates how various taxing districts could be affected by this change. In this example, a fire district had a 3-mill levy that was in effect when the taxes were charged, but not in effect in the year the taxes were collected.

| <b>Tax District</b>            | <b>Delinquency Amount Accumulated Over 4 Years</b> | <b>Original Tax Rate</b> | <b>Original Proportion</b> | <b>Original Revenue</b> | <b>Current Proportion</b> | <b>Current Revenue</b> | <b>Revenue Difference</b> |
|--------------------------------|--|--------------------------|----------------------------|-------------------------|---------------------------|------------------------|---------------------------|
| <b>Fire District</b>           | \$1,000,000  | 3 Mills                  | 5.000%                     | \$50,000                | 0.000%                    | \$0                    | -\$50,000                 |
| <b>School District</b>         | \$1,000,000  | 43 Mills                 | 71.667%                    | \$716,667               | 75.439%                   | \$754,386              | \$37,719                  |
| <b>Other Local Governments</b> | \$1,000,000  | 14 Mills                 | 23.333%                    | \$233,333               | 24.561%                   | \$245,614              | \$12,281                  |

The overall statewide impact will be close to revenue neutral due to the fact that the overall effective state millage rate has been fairly constant over the last several years. But, at the individual tax district level, revenue gains or losses could be more significant if the effective tax rates are significantly different from the period covered by the delinquency. Contingent on the amount of delinquent tax revenue, historical tax rates, and when a collection occurs, an individual tax district could experience an insignificant or significant delinquent property tax revenue gain or loss. A district with a relatively higher tax rate currently than during the delinquency period would receive more revenue and other districts would receive less. If a district had a relatively lower tax rate than now during the delinquency period, then the district would receive less revenue than it would under the current system and other districts would receive more revenues.

Delinquent property often has several years' worth of delinquencies that are settled at one time. The proposed change would result in a slight decrease in administrative costs for county officials because of the need for less complex calculations than under the current method.

### **County Auditor Tax Valuation Certifications**

Under current law when a local taxing authority determines it is necessary to levy a tax outside the ten-mill limit, the taxing authority must inform the county auditor by issuing a resolution or ordinance. The resolution or ordinance must *request* that the county auditor certify to the taxing authority the total current taxable value of the subdivision and the tax rate required to generate a specified amount of revenue or the amount of revenue that would be generated by a specified number of mills. If the taxing authority would like to continue with their levy request after receiving the county auditor's certification, they must certify a resolution or ordinance to the county board of elections.

The bill *requires* the county auditor to issue a tax valuation certification to the local taxing authority within ten days after receiving the resolution or ordinance. It further requires a copy of the certification to accompany the taxing authority's resolution or ordinance submitted to the board of elections. Under the bill, the county board of elections is prohibited from submitting the question of the tax levy to the voters without a copy of the certification.

The ten-day window for county auditors to issue a valuation certification may be problematic for some counties especially so for less populous counties where the county auditor's office typically employs a relatively small staff. It is also important to note that there are no penalties for auditors who fail to issue a certification.

*LSC fiscal staff: Nickie Evans, Economist*

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- The Medicaid program will have a decrease in expenditures associated with the purchase of pharmaceuticals for Medicaid recipients since there will be drugs available for prescription that are donated under this drug repository program.
- Revenues that the Medicaid program receives under drug rebate programs from manufacturers would be lessened since fewer drugs would be purchased from the manufacturer under the Medicaid program if the drugs were instead available through the repository program.
- The bill takes effect one year after the effective date. Therefore, LSC estimates that no fiscal impact will occur until FY 2004.

### ***Local Fiscal Highlights***

- No direct fiscal effect on political subdivisions.
- 

### ***Detailed Fiscal Analysis***

#### **Ohio Department of Health (DOH) and Pharmacy Board (PRX)**

The bill requires the Pharmacy Board to establish the drug repository program and consult with the Department of Health as the Board promulgates rules governing the program. PRX will incur a minimal increase in expenditures associated with activities surrounding the rule-making process. In future years, the Board may incur costs if the program's rules are updated and/or amended.

As part of the rule making process, eligibility standards based on economic need will be established to determine what individuals are eligible to receive drugs under this program. The rules also require the establishment of a mechanism, such as an identification card, by which an individual could demonstrate eligibility under the program to a pharmacist, in order to receive the benefits of the program. If an identification card is required, the entity producing the cards will incur an increase in expenditures. The bill also requires a person who receives donated drugs to be a resident of Ohio. In addition, the rules promulgated by PRX must establish eligibility criteria for hospitals, pharmacies, and nonprofit clinics to receive and dispense donated drugs.

#### **Medicaid**

The bill will have fiscal impact on the state Medicaid program related to purchasing drugs for the Medicaid program and receiving revenue under the drug rebate program from the manufacturer.

The bill will reduce state Medicaid costs since Medicaid will not need to pay for the drugs for Medicaid recipients that are having their prescriptions filled with drugs donated under the repository program. However, the state will also incur a reduction in the amount of revenue received under the drug manufacturer rebate program since the Medicaid program will purchase fewer drugs. The state usually receives rebates equal to about 20 percent of the cost of a drug from the manufacturer. The

drug rebates are deposited in Federal Special Revenue Fund 5P5 and appropriated in line item 600-692, Health Care Services.

The Legislative Service Commission is not aware of any data source that would provide a number corresponding to the amount of donated drugs that will be prescribed under the plan. Therefore, LSC is unable to estimate the net effect of the bill on the state Medicaid program. In addition, the federal government would reimburse the state for approximately 60 percent of Medicaid drug expenditures.

Since the bill takes effect one year after the effective date, LSC estimates that no fiscal impact will occur until FY 2004.

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# Fiscal Note & Local Impact Statement

124<sup>th</sup> General Assembly of Ohio

Ohio Legislative Service Commission  
77 South High Street, 9<sup>th</sup> Floor, Columbus, OH 43266-0342 ✦ Phone: (614) 466-3615  
✦ Internet Web Site: <http://www.lsc.state.oh.us/>

BILL: **Am. Sub. H.B. 327** DATE: **March 12, 2002**

STATUS: **As Enacted – Effective July 8, 2002 (Certain provisions effective July 24, 2002, or effective date of the Interstate Compact for Adult Offender Supervision, whichever is later)** SPONSOR: **Rep. Latta**

LOCAL IMPACT STATEMENT REQUIRED: **No — Introduced version had no local costs; Enacted version may create local costs exceeding minimal**

CONTENTS: **Clarifies certain provisions of the Felony Sentencing Law, corrects the penalty provisions for illegal processing of drug documents, clarifies the eligibility criteria for intervention in lieu of conviction, requires applicants for nurse licensure and dialysis technician certification to have a criminal records check, expands the offense of unauthorized use of property to specifically include nonconsensual access to a cable service or cable system, revises certain provisions of the law governing nurses and dialysis technicians as to licensing or certification, duties, and training, specifies that the members of the Ohio Council for Interstate Adult Supervision serve without compensation but are to be reimbursed for expenses, and extends until July 1, 2002, the date by which the State Criminal Sentencing Commission must recommend changes to the state's criminal forfeiture laws**

## State Fiscal Highlights

| STATE FUND                                   | FY 2002* | FY 2003   | FUTURE YEARS   |
|--|----------|---|--|
| <b>General Revenue Fund (GRF)</b>            |          |   |  |
| Revenues                                     | - 0 -    | - 0 -   | - 0 -  |
| Expenditures                                 | - 0 -    | Factors increasing incarceration costs potentially in excess of \$100,000 | Factors increasing incarceration costs potentially in excess of \$100,000 annually |
| <b>General Reimbursement Fund (Fund 106)</b> |          |   |  |
| Revenues                                     | - 0 -    | Gain, unlikely to exceed minimal  | Gain, unlikely to exceed minimal annually  |
| Expenditures                                 | - 0 -    | Increase, not exceeding revenue gain                                      | Increase, not exceeding annual revenue gain  |

Note: The state fiscal year is July 1 through June 30. For example, FY 2003 is July 1, 2002 – June 30, 2003.

\*This analysis assumes the fiscal effects that the state could experience as a result of the bill will occur no sooner than FY 2003.



- **Incarceration costs.** From a fiscal perspective, the bill’s most notable state effects will be created for the Department of Rehabilitation and Correction relative to its annual GRF-funded incarceration costs. A few factors in the bill, for example, changes in the prosecution of certain domestic violence offenders, will likely increase the Department’s annual incarceration costs. Although calculating a precise cost associated with these factors is problematic, it would appear that their combined fiscal effect on the Department’s annual incarceration costs could exceed minimal, which means in excess of \$100,000.
- **Ohio Council for Interstate Adult Supervision.** The bill specifies that the members of the proposed Council serve without compensation, but are to be reimbursed for their actual and necessary expenses incurred in the performance of official Council duties. It appears likely that the cost to the state of reimbursing Council members for their actual and necessary expenses will total less than \$10,000 annually, perhaps around \$5,000 or so, and that the burden of paying for those expenses will fall on DRC, which will presumably use funds appropriated to its GRF budget.
- **BCII.** The Office of the Attorney General’s Bureau of Criminal Identification and Investigation (BCII) will collect what is likely to be no more than a minimal amount of background check fee revenue annually to be paid by certain license applicants to the state’s Board of Nursing, and that the cost of the background check work involved for BCII would be covered by the revenue gain. The revenue gains and expenditure increases would be credited against the Office of the Attorney General’s General Reimbursement Fund (Fund 106).

### ***Local Fiscal Highlights***

| LOCAL GOVERNMENT      | FY 2002                                | FY 2003                                | FUTURE YEARS                                    |
|-----------------------|--|--|---|
| <b>Counties</b>       |  |  |   |
| Revenues              | Gain, not likely to exceed minimal     | Gain, not likely to exceed minimal     | Gain, not likely to exceed minimal annually     |
| Expenditures          | Increase, possibly exceeding minimal   | Increase, possibly exceeding minimal   | Increase, possibly exceeding minimal annually   |
| <b>Municipalities</b> |  |  |   |
| Revenues              | Loss, not likely to exceed minimal     | Loss, not likely to exceed minimal     | Loss, not likely to exceed minimal annually     |
| Expenditures          | Decrease, not likely to exceed minimal | Decrease, not likely to exceed minimal | Decrease, not likely to exceed minimal annually |

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- **Shifting of domestic violence cases.** It seems reasonable to conclude that, as a result of the bill, a number of domestic violence cases, potentially a relatively large number, will shift from municipal and county courts to common pleas courts where the processing of felony cases is generally considered to be more expensive.
- **County criminal justice systems.** From a fiscal perspective, the provision of the bill that will create noticeable local effects will be changes in the manner in which repeat domestic violence offenders are charged, prosecuted, and sanctioned. It appears the likely effect is that annual county criminal justice expenditures will increase, perhaps more than minimally. Cases shifting out of the misdemeanor system into the felony system also means that counties will gain court cost and fine revenues. Although an estimate of that revenue is difficult to calculate with much precision at this time, it would appear that these revenue gains would be unlikely to exceed minimal annually.

- **Municipal criminal justice systems.** Conversely, municipal criminal justice systems will realize some expenditure savings as cases are elevated into county criminal justice systems, and will also lose court cost and fine revenues that would otherwise have been collected. Although it is fairly difficult at this time to put a very precise annual price tag on these local fiscal effects for municipalities, the expected decreases in expenditures and losses in revenues appear unlikely to exceed minimal.

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## ***Detailed Fiscal Analysis***

From a fiscal perspective, the bill's more notable features are discussed below.

### ***Intervention in lieu of conviction***

The bill clarifies the eligibility criteria for “intervention in lieu of conviction.” Currently, if drugs or alcohol are suspected of being a contributing factor to the criminal conduct for which an offender is charged, that offender can request, prior to the entry of a guilty plea, intervention in lieu of conviction. The court is required to then determine, in the affirmative, whether there is the absence of nine disqualifying criteria. The presence of any of these nine criteria would make an offender ineligible for intervention in lieu of conviction if the charge at hand involves a first-, second-, or third-degree felony corruption of another with drugs, drug trafficking, or the illegal manufacture of drugs. The bill would make this disqualifying criteria apply regardless of the degree of the offense. As a result, a small number of offenders may end up being denied intervention in lieu of conviction and sentenced to prison, which would result in, at most, a minimal increase in the annual incarceration expenses of the Department of Rehabilitation and Correction (DRC).

### ***Felony Sentencing Law clarification***

The bill compels courts to consider, in their sentencing decisions, whether an offender was serving a prison term at the time that the offense at hand was committed. If an inmate committed the offense in question, the bill formally provides judges more options in the sentencing guidelines for that offense. For example, the bill provides that the court is not required to impose the shortest prison term if an inmate committed the offense. The bill also provides greater latitude for judges to impose consecutive sentences for multiple offenses committed by an inmate.

Existing sentencing guidelines already give courts the authority to reject the shortest sentence and also to impose consecutive sentences if such actions are necessary to adequately reflect the seriousness of the crimes committed or to protect society from the future violent behavior of a given offender. Thus, these sentencing changes are largely clarifications of existing law and should not create any noticeable fiscal effects for the state or its political subdivisions.

### ***Post-release control***

The bill clarifies how felony violators of post-release control are handled. It does so by moving the section of the Revised Code which specifies that, when an offender on post-release control commits a new felony, the sentencing judge, in addition to imposing a prison term for the new felony, can impose a prison sentence of up to the remaining period of post-release control for the earlier felony or one year, whichever is longer, to the section of the Revised Code governing prison terms. The relocation of this existing sentencing language could alter the balance between DRC's average daily inmate population in prison and its average daily population of offenders under community supervision from what might

otherwise have occurred under the state's Felony Sentencing Law as it is currently constructed. Although some shifts in these two DRC populations could occur, such shifts are not expected to produce a noticeable change in the Department's annual incarceration and post-release control expenditures.

### **Shock incarceration**

The bill eliminates the requirement that courts determine if an offender is eligible for placement in a program of shock incarceration and transfers that function to DRC. Courts would not be prohibited from making specific recommendations if they so chose and courts would retain the authority to veto the placement of an offender into a shock incarceration program. The effect of this provision of the bill should be to lessen some of the administrative burdens on both courts and DRC. The annual savings in a fiscal sense to both courts and DRC would likely be negligible at most.

### **Domestic violence**

The bill clarifies that pleading guilty to a domestic violence offense will be treated identically, in terms of enhancing a future charge of domestic violence, to cases where a defendant enters a no contest plea or is convicted by trial. It appears that courts currently tend to consider a guilty plea as being a different process than a trial conviction, and repeat domestic violence offenses are widely charged as a misdemeanor of the first degree, which is the same as a first-time domestic violence offense. The net effect of this clarification is that all repeat offenders, including those who previously pleaded guilty to domestic violence offenses, will face a felony of the fifth degree and the more serious sanction intended for a repeat domestic violence offense. In determining the existence of a previous domestic violence conviction, the bill would also include cases in which there was a prior conviction for committing an act of domestic violence in another state or in violation of a similar United States law.

There are currently thousands of cases of domestic violence charges filed annually statewide as misdemeanors in municipal and county courts. The Ohio Criminal Sentencing Commission (OCSC) has data suggesting an estimate of approximately 17,000 annual domestic violence cases. At this time, LSC fiscal staff cannot precisely estimate the number of repeat offenders that previously pled guilty to a domestic violence offense, but have learned that the vast majority of domestic violence convictions, more than 90%, come as a result of a guilty plea, and that first-time offenders spend an average of eight days in a local jail. Additionally, the OCSC data suggests that, out of the 17,000 estimated annual cases, approximately 5.4%, or around 918 offenders, have evidence of a prior similar conviction. This does not include a small number of additional repeat offenders that migrate to Ohio from other states where they have prior domestic violence convictions. Based on a conversation with the Ohio Prosecuting Attorneys Association, such cases have been a problem in Ohio's counties that border other states.

It seems therefore reasonable to conclude that, as a result of the bill, a number of domestic violence cases, potentially a relatively large number, will shift from municipal and county courts to common pleas courts where the processing of felony cases is generally considered to be more expensive. While it is difficult to predict an exact shift in caseload, some county criminal justice system's

adjudication, prosecution, and indigent defense costs will increase in order to process and resolve additional domestic violence cases.

Local jail costs for counties will likely increase as well. If only ten additional offenders are convicted of a repeat domestic violence offense and are given double the eight-day average jail term of a first-time domestic violence offender, or 16 days, then the cost just for local incarceration (at about \$65 per day statewide) would be in excess of the \$5,000 threshold that LSC fiscal staff typically term “minimal local cost.”

Cases shifting out of the misdemeanor system into the felony system also mean that counties will gain court cost and fine revenues. Although an estimate of that revenue is difficult to calculate with much precision at this time, it would appear that these revenue gains are unlikely to exceed minimal annually.

Conversely, municipal criminal justice systems will realize some expenditure savings as cases are elevated into county criminal justice systems, and also lose court cost and fine revenues that would otherwise have been collected. Although it is fairly difficult at this time to put a very precise annual price tag on these local fiscal effects for municipalities, the expected decreases in expenditures and losses in revenues appear unlikely to exceed minimal.

There is no presumption for prison on a felony of the fifth degree. The average time served for offenders actually sentenced to prison for the primary offense of a felony of the fifth degree is 0.69 years. Additional domestic violence offenders are also likely to be sentenced to prison as a result of the bill, thus increasing DRC’s incarceration costs. The annual increase in DRC’s incarceration costs is difficult to precisely predict at this time, but could easily exceed minimal annually, which means in excess of \$100,000, if 20 or more additional offenders are sentenced to prison annually.

### **Criminal records checks**

The bill allows the state’s Board of Nursing to require criminal background checks and deny licensure to certain nursing applicants, based on a criminal record check finding, without requiring a full investigation and hearing. The same provision would also apply to those seeking licensure as dialysis technicians. It appears that, as a result of this provision, the Office of the Attorney General’s Bureau of Criminal Identification and Investigation (BCII) would collect a minimal amount of background check fee revenue annually to be paid by the applicant seeking licensure, and that the cost of the work involved for BCII would presumably be covered by the revenue gain. The revenue gains and expenditure increases would be credited against the Office of the Attorney General’s General Reimbursement Fund (Fund 106).

### **Ohio Council for Interstate Adult Supervision**

Substitute House Bill 269, enacted by 124th General Assembly, withdraws Ohio from its current relationship with the Interstate Compact for the Supervision of Parolees and Probationers and joins the proposed Interstate Compact for Adult Offender Supervision. Thirty-five states must pass the appropriate legislation and thus join the compact before it may take effect. If that does not happen, then Ohio will remain a member of the existing Interstate Compact for the Supervision of Parolees and Probationers, and there would be no Interstate Compact for Adult Offender Supervision to join. As of this writing, around 20 states, including Ohio, have done so.

Each member state of the proposed compact is required to create a state council for interstate adult supervision. Pursuant to Sub. H.B. 269, Ohio's state council will be comprised of seven members, however, that legislation is silent on whether the members can receive compensation or be reimbursed for expenses incurred in the performance of their duties as Council members. This bill, H.B. 327, specifies that the members of the Council serve without compensation, but are to be reimbursed for their actual and necessary expenses incurred in the performance of official Council duties. It appears likely that the cost to the state of reimbursing Council members for their actual and necessary expenses will total less than \$10,000 annually, perhaps around \$5,000 or so, and that the burden of paying for those expenses will fall on DRC, which will presumably use funds appropriated to its GRF budget.

*LSC fiscal staff: Joseph Rogers, Budget Analyst*

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- Based on federal 2000 census data, and applying the classifications for cities and villages that have been determined by the Secretary of State, with a population of 20,000 or less as stipulated in the bill, the following officially classified Ohio cities could be impacted by the provisions of the bill.

- Belmont county/70,226                      **Martins Ferry city/7,226**                      **10.29%**
- Clermont county/177,977                      **Milford city/6,284**                      **3.53%**
- Columbiana county/112,075                      **East Liverpool city/13,089**                      **11.68%**
- Geauga county/90,895                      **Chardon Village city (chartered)/5,156**                      **5.67%**
- Perry county/34,078                      **New Lexington city (special enumeration) 5,033**  
**14.77%**

### ***Detailed Fiscal Analysis***

The following table, which is based upon data from the federal 2000 Census, the Ohio Department of Development, the Ohio Municipal League, and the Secretary of State, displays Ohio’s statewide 2000 population distribution of the largest municipality in each county as a percent of the total county population (in the first five columns). The distribution of county undivided Local Government Funds for calendar year 1999, as provided by the Ohio Department of Taxation, is displayed in the last two columns.

| County    | County Population-2000 Census | Largest Municipal Corporation (city or village) within county | Largest City or Village Population - 2000 Census | % of County Population | Total Amount of LGF Monies Distributed to County in 1999 | Total Amount of LGF Monies Distributed to Largest City or Village in 1999 |
|-----------|-------------------------------|---|--|------------------------|--|---|
| Adams     | 27,330                        | West Union Village  | 2,903  | 10.62%                 | \$ 630,357   | \$ 38,461   |
| Allen     | 108,473                       | Lima City   | 40,081   | 36.95%                 | \$ 4,630,987   | \$ 1,648,433  |
| Ashland   | 52,523                        | Ashland City  | 21,249   | 40.46%                 | \$ 2,048,818   | \$ 371,278  |
| Ashtabula | 102,728                       | Ashtabula City  | 20,962   | 20.41%                 | \$ 3,866,580   | \$ 1,007,696  |
| Athens    | 62,223                        | Athens City   | 21,342   | 34.30%                 | \$ 1,884,318   | \$ 541,952  |
| Auglaize  | 46,611                        | Wapakoneta City   | 9,474  | 20.33%                 | \$ 2,314,925   | \$ 324,089  |
| Belmont   | 70,226                        | <b>Martins Ferry City</b>                                     | 7,226  | 10.29%                 | \$ 2,834,588   | \$ 294,259  |
| Brown     | 42,285                        | Georgetown Village  | 3,691  | 8.73%                  | \$ 991,065   | \$ 50,495   |
| Butler    | 332,807                       | Hamilton City   | 60,690   | 18.24%                 | \$ 14,087,850  | \$ 1,445,465  |
| Carroll   | 28,836                        | Carrollton Village  | 3,190  | 11.06%                 | \$ 687,369   | \$ 34,094   |
| Champaign | 38,890                        | Urbana City   | 11,613   | 29.86%                 | \$ 1,331,080   | \$ 375,178  |
| Clark     | 144,742                       | Springfield City  | 65,358   | 45.15%                 | \$ 5,417,719   | \$ 2,614,919  |
| Clermont  | 177,977                       | <b>Milford City</b>   | 6,284  | 3.53%                  | \$ 3,702,293   | \$ 347,386  |
| Clinton   | 40,543                        | Wilmington City   | 11,921   | 29.40%                 | \$ 1,473,669   | \$ 434,732  |

| County     | County Population-2000 Census | Largest Municipal Corporation (city or village) within county | Largest City or Village Population - 2000 Census | % of County Population | Total Amount of LGF Monies Distributed to County in 1999 | Total Amount of LGF Monies Distributed to Largest City or Village in 1999 |
|------------|-------------------------------|---|--|------------------------|--|---|
| Columbiana | 112,075                       | <b>East Liverpool City</b>                                    | 13,089   | 11.68%                 | \$ 3,479,816   | \$ 708,207  |
| Coshocton  | 36,655                        | Coshocton City  | 11,682   | 31.87%                 | \$ 1,429,282   | \$ 343,700  |
| Crawford   | 46,966                        | Bucyrus City  | 13,224   | 28.16%                 | \$ 2,148,226   | \$ 283,566  |
| Cuyhoga    | 1,393,978                     | Cleveland City  | 478,403  | 34.32%                 | \$ 120,887,785   | \$ 47,859,960   |
| Darke      | 53,309                        | Greenville City   | 13,294   | 24.94%                 | \$ 2,251,906   | \$ 389,580  |
| Defiance   | 39,500                        | Defiance City   | 16,465   | 41.68%                 | \$ 1,758,528   | \$ 277,847  |
| Delaware   | 109,989                       | Delaware City   | 25,243   | 22.95%                 | \$ 4,370,286   | \$ 919,034  |
| Erie       | 79,551                        | Sandusky City   | 27,844   | 35.00%                 | \$ 3,808,372   | \$ 651,489  |
| Fairfield  | 122,759                       | Lancaster City  | 35,335   | 28.78%                 | \$ 4,605,676   | \$ 1,243,532  |
| Fayette    | 28,433                        | Washington City   | 13,524   | 47.56%                 | \$ 1,120,141   | \$ 512,464  |
| Franklin   | 1,068,978                     | Columbus City   | 711,470  | 66.56%                 | \$ 78,166,529  | \$ 34,527,396   |
| Fulton     | 42,084                        | Wauseon City  | 7,091  | 16.85%                 | \$ 1,997,039   | \$ 223,697  |
| Gallia     | 31,069                        | Gallipolis City (officially village)                          | 4,180  | 13.45%                 | \$ 875,558   | \$ 131,334  |
| Geauga     | 90,895                        | <b>Chardon Village city (chartered)</b>                       | 5,156  | 5.67%                  | \$ 2,405,257   | \$ 75,044   |
| Greene     | 147,886                       | Beavercreek City  | 37,984   | 25.68%                 | \$ 8,525,918   | \$ 881,580  |
| Guernsey   | 40,792                        | Cambridge City  | 11,520   | 28.24%                 | \$ 1,441,035   | \$ 401,263  |
| Hamilton   | 845,303                       | Cincinnati City   | 331,285  | 39.19%                 | \$ 54,736,438  | \$ 22,182,849   |
| Hancock    | 71,295                        | Findlay City  | 38,967   | 54.66%                 | \$ 3,852,260   | \$ 731,929  |
| Hardin     | 31,945                        | Kenton City   | 8,336  | 26.09%                 | \$ 1,160,850   | \$ 160,429  |
| Harrison   | 15,856                        | Cadiz Village   | 3,308  | 20.86%                 | \$ 533,076   | \$ 4,265  |
| Henry      | 29,210                        | Napoleon City   | 9,318  | 31.90%                 | \$ 1,184,061   | \$ 262,317  |
| Highland   | 40,875                        | Hillsboro City  | 6,368  | 15.58%                 | \$ 1,301,809   | \$ 136,182  |
| Hocking    | 28,241                        | Logan City  | 6,704  | 23.74%                 | \$ 775,423   | \$ 125,685  |
| Holmes     | 38,943                        | Millersburg Village   | 3,326  | 8.54%                  | \$ 800,918   | \$ 14,417   |
| Huron      | 59,487                        | Norwalk City  | 16,238   | 27.30%                 | \$ 2,755,573   | \$ 532,826  |
| Jackson    | 32,641                        | Wellston City   | 6,078  | 18.62%                 | \$ 1,081,277   | \$ 145,862  |
| Jefferson  | 73,894                        | Steubenville City   | 19,015   | 25.73%                 | \$ 4,163,106   | \$ 1,077,489  |
| Knox       | 54,500                        | Mount Vernon City   | 14,375   | 26.38%                 | \$ 1,867,833   | \$ 324,510  |
| Lake       | 227,511                       | Mentor City   | 50,278   | 22.10%                 | \$ 18,666,523  | \$ 2,990,526  |
| Lawrence   | 62,319                        | Ironton City  | 11,211   | 17.99%                 | \$ 1,600,111   | \$ 362,905  |
| Licking    | 145,491                       | Newark City   | 46,279   | 31.81%                 | \$ 6,273,294   | \$ 1,796,671  |
| Logan      | 46,005                        | Bellefontaine City  | 13,069   | 28.41%                 | \$ 1,754,890   | \$ 263,233  |
| Lorain     | 284,664                       | Lorain City   | 68,652   | 24.12%                 | \$ 16,997,152  | \$ 2,774,145  |
| Lucas      | 455,054                       | Toledo City   | 313,619  | 68.92%                 | \$ 26,192,843  | \$ 13,831,830   |
| Madison    | 40,213                        | London City   | 8,771  | 21.81%                 | \$ 1,304,612   | \$ 120,024  |
| Mahoning   | 257,555                       | Youngstown City   | 82,026   | 31.85%                 | \$ 10,003,516  | \$ 2,463,816  |
| Marion     | 66,217                        | Marion City   | 35,318   | 53.34%                 | \$ 2,532,697   | \$ 1,076,396  |
| Medina     | 151,095                       | Brunswick City  | 33,388   | 22.10%                 | \$ 6,711,019   | \$ 805,322  |
| Meigs      | 23,072                        | Middleport Village  | 2,525  | 10.94%                 | \$ 563,722   | \$ 65,753   |
| Mercer     | 40,924                        | Celina City   | 10,303   | 25.18%                 | \$ 1,851,307   | \$ 362,065  |
| Miami      | 98,868                        | Troy City   | 21,999   | 22.25%                 | \$ 5,019,363   | \$ 844,513  |
| Monroe     | 15,180                        | Woodsfield Village  | 2,598  | 17.11%                 | \$ 352,615   | \$ 12,316   |

| County     | County Population-2000 Census | Largest Municipal Corporation (city or village) within county | Largest City or Village Population - 2000 Census | % of County Population | Total Amount of LGF Monies Distributed to County in 1999 | Total Amount of LGF Monies Distributed to Largest City or Village in 1999 |
|------------|-------------------------------|---|--|------------------------|--|---|
| Montgomery | 559,062                       | Dayton City   | 166,179  | 29.72%                 | \$ 32,160,989  | \$ 11,175,281   |
| Morgan     | 14,897                        | McConnelsville Village  | 1,676  | 11.25%                 | \$ 378,180   | \$ 42,999   |
| Morrow     | 31,628                        | Mount Gilead Village  | 3,290  | 10.40%                 | \$ 628,490   | \$ 36,540   |
| Muskingum  | 84,585                        | Zanesville City   | 25,586   | 30.25%                 | \$ 2,995,177   | \$ 1,186,090  |
| Noble      | 14,058                        | Caldwell Village  | 1,956  | 13.91%                 | \$ 353,278   | \$ 16,781   |
| Ottawa     | 40,985                        | Port Clinton City   | 6,391  | 15.59%                 | \$ 1,659,338   | \$ 325,230  |
| Paulding   | 20,293                        | Paulding Village  | 3,595  | 17.72%                 | \$ 576,852   | \$ 43,749   |
| Perry      | 34,078                        | <b>New Lexington City</b>                                     | 5,033  | 14.77%                 | \$ 801,573   | \$ 51,631   |
| Pickaway   | 52,727                        | Circleville City  | 13,485   | 25.58%                 | \$ 1,670,002   | \$ 551,101  |
| Pike       | 27,695                        | Waverly City  | 5,284  | 19.01%                 | \$ 681,497   | \$ 100,180  |
| Portage    | 152,061                       | Kent City   | 27,906   | 18.35%                 | \$ 6,094,886   | \$ 1,218,977  |
| Preble     | 42,337                        | Eaton City  | 8,133  | 19.21%                 | \$ 1,399,095   | \$ 156,699  |
| Putnam     | 34,726                        | Ottawa Village  | 4,367  | 12.58%                 | \$ 1,377,993   | \$ 66,144   |
| Richland   | 128,852                       | Mansfield City  | 49,346   | 38.30%                 | \$ 6,079,464   | \$ 2,279,799  |
| Ross       | 73,345                        | Chillicothe City  | 21,796   | 29.72%                 | \$ 2,708,225   | \$ 851,271  |
| Sandusky   | 61,792                        | Fremont City  | 17,375   | 28.12%                 | \$ 2,941,811   | \$ 591,592  |
| Scioto     | 79,195                        | Portsmouth City   | 20,908   | 26.40%                 | \$ 2,322,809   | \$ 1,026,823  |
| Seneca     | 58,683                        | Tiffin City   | 18,135   | 30.90%                 | \$ 2,650,585   | \$ 461,202  |
| Shelby     | 47,910                        | Sidney City   | 20,211   | 42.19%                 | \$ 2,493,367   | \$ 712,155  |
| Stark      | 378,098                       | Canton City   | 80,806   | 21.37%                 | \$ 15,859,903  | \$ 5,154,468  |
| Summit     | 542,899                       | Akron City  | 217,074  | 39.98%                 | \$ 35,622,077  | \$ 11,220,954   |
| Trumbull   | 225,116                       | Warren City   | 46,832   | 20.80%                 | \$ 8,855,315   | \$ 1,461,127  |
| Tuscarawus | 90,914                        | New Philadelphia City   | 17,056   | 18.76%                 | \$ 4,081,354   | \$ 515,845  |
| Union      | 40,909                        | Marysville City   | 15,942   | 38.97%                 | \$ 1,220,934   | \$ 184,385  |
| Van Wert   | 29,659                        | Van Wert City   | 10,690   | 36.04%                 | \$ 1,291,157   | \$ 152,244  |
| Vinton     | 12,806                        | McArthur Village  | 1,888  | 14.74%                 | \$ 309,586   | \$ 49,534   |
| Warren     | 158,383                       | Mason City  | 22,016   | 13.90%                 | \$ 6,572,517   | \$ 523,948  |
| Washington | 63,251                        | Marietta City   | 14,515   | 22.95%                 | \$ 2,177,011   | \$ 370,527  |
| Wayne      | 111,564                       | Wooster City  | 24,811   | 22.24%                 | \$ 4,876,628   | \$ 1,082,773  |
| Williams   | 39,188                        | Bryan City  | 8,333  | 21.26%                 | \$ 1,893,766   | \$ 377,238  |
| Wood       | 121,065                       | Bowling Green City  | 29,636   | 24.48%                 | \$ 5,084,614   | \$ 910,152  |
| Wyandot    | 22,908                        | Upper Sandusky City   | 6,533  | 28.52%                 | \$ 1,003,546   | \$ 275,975  |
| Total      |                               |   |  |                        | \$ 618,031,278   |   |

*Bold indicates cities whose population is 20,000 or less and is less than 15% of county population.*

*LSC fiscal staff: Carol Robison, Budget Analyst*

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# Fiscal Note & Local Impact Statement

124<sup>th</sup> General Assembly of Ohio

Ohio Legislative Service Commission  
77 South High Street, 9<sup>th</sup> Floor, Columbus, OH 43266-0342 ✧ Phone: (614) 466-3615  
✧ Internet Web Site: <http://www.lsc.state.oh.us/>

BILL: **Sub. H.B. 364** DATE: **December 5, 2002**

STATUS: **As Enacted – Effective April 8, 2003** SPONSOR: **Rep. Husted**  
**(Certain provisions effective January 1, 2004)**

LOCAL IMPACT STATEMENT REQUIRED: **Yes**

CONTENTS: **Expands community school law.**

## State Fiscal Highlights

| STATE FUND                  | FY 2003                | FY 2004                | FUTURE YEARS           |
|-----------------------------|------------------------|------------------------|------------------------|
| <b>General Revenue Fund</b> |                        |                        |                        |
| Revenues                    | - 0 -                  | - 0 -                  | - 0 -                  |
| Expenditures                | Indeterminate increase | Indeterminate increase | Indeterminate increase |

Note: The state fiscal year is July 1 through June 30. For example, FY 2003 is July 1, 2002 – June 30, 2003.

- The bill creates the Office of Community Schools within the Department of Education. The office would be responsible for monitoring and oversight of community schools in Ohio, including audits of the schools and investigations of any complaints about the schools. There may be an increase in administrative costs dependent on any possible increase in the number of community schools and increased oversight.
- The bill allows community school students who are not enrolled in the first week of October to count towards the ADM of the school district in which they are entitled to attend. This will increase state funding to local school districts by the base cost (\$4,949 in FY 2003) plus any applicable weights for each affected student.

## Local Fiscal Highlights

| LOCAL GOVERNMENT        | FY 2003   | FY 2004   | FUTURE YEARS  |
|-------------------------|---|---|---|
| <b>School Districts</b> |   |   |   |
| Revenues                | Loss depending on the number of new community schools established     | Loss depending on the number of new community schools established     | Loss depending on the number of new community schools established     |
| Expenditures            | Decrease depending on the number of new community schools established | Decrease depending on the number of new community schools established | Decrease depending on the number of new community schools established |



| <b>Courts</b> |   |   |   |
|---------------|---|---|---|
| Revenues      | - 0 -   | - 0 -   | - 0 -   |
| Expenditures  | Minimal increase depending on the number of felonies committed in the designated "school safety zone" | Minimal increase depending on the number of felonies committed in the designated "school safety zone" | Minimal increase depending on the number of felonies committed in the designated "school safety zone" |

Note: The school district fiscal year is July 1 through June 30.

- There are potential decreases in revenues and expenditures to local school districts that are dependent on the number of new community schools established and the resulting increase in community school students. The state deducts the base cost plus applicable weights for each student attending a community school from the funding for the school district in which the community school student is entitled to attend. If the student was attending the school district (rather than being home-schooled or attending a private school), then the district may have lower expenditures resulting from no longer educating the student. Net negative effects could be transitory if school district employment levels are kept in line with student levels.
- The bill imposes a cap of 225 community schools until July 1, 2005. It also expands the area in which community schools may be established to include school districts in academic watch.
- The bill also classifies gifted students as "at-risk," meaning that community schools could be established specifically for the gifted students in a given school district. The bill also permits the establishment of single-sex community schools.
- The effects of community schools on local school districts are not uniform. The effects depend on the unique circumstances of a given school district.
- If a school district fails to provide transportation for community schools as required under current law, that district can lose money from the state for failing to comply with the law. The effect of this provision for local school districts would be the cost of compliance with the law.
- The bill allows community school students who are not enrolled in the first week of October to count towards the ADM of the school district in which they are entitled to attend. This will increase state funding to local school districts by the base cost (\$4,949 in FY 2003) plus any applicable weights for each affected student.
- The bill designates community schools as school safety zones. This increases the level of penalty for certain offenses at or above the felony 3 level. This could have a minimal fiscal impact on the courts that have to hear the cases.

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## ***Detailed Fiscal Analysis***

Substitute House Bill 364 makes several changes to the community school law. Some of these changes make it easier for new community schools to open and others make it more difficult. It is not possible, therefore, to accurately predict whether there will be an increase or decrease in community schools and community school students as a result of the bill. Changes that may lead to more community schools opening include an increase in the types of organizations that can sponsor community schools and permission for community schools to restrict enrollment to gifted students or students of a single gender. Changes that may lead to fewer community schools opening include removal of the Ohio Department of Education from the list of possible sponsors for schools and requirement that community schools comply with more state laws including the laws regarding truancy. In addition, the bill imposes a cap of 225 community schools, while under current law there is no cap.

### **Local Costs**

#### *Start-up Community School Locations*

The bill allows community schools to be located only in the “urban 21” school districts (this includes the Big 8 school districts), in the Lucas County pilot area, or any other district that is labeled to be in academic watch or academic emergency. Current law is similar, but it does not permit community schools in academic watch districts. School districts count community school students in their average daily membership (ADM) for the purposes of state funding, but the base cost amount (\$4,949 in FY 2003) plus any additional weighted funding or DPIA applicable to the student is deducted from the school district’s funding and transferred to the community school.

The fiscal effect of an increase in the number of community school students within a district is dependent on whether enrollments are increasing or decreasing in that district. For example, if a community school is established in a school district where the student body is increasing every year, then the likelihood is that the community school would absorb part of that increase. One of the immediate effects on the district would include the need to hire fewer new teachers. The district may also need less in the way of new buildings if the increase in students became less due to the presence of a community school. The community school would, theoretically, absorb some of that increase as the school developed.

On the other hand, if a community school were established in a school district where the student body is stable or decreasing every year, then, when the community school begins enrolling students from that district, one of the immediate effects would be the need to reduce the number of teachers and the number of classrooms utilized. Because most districts hire some new teachers each year, this reduction will mostly be accomplished by hiring fewer new teachers. If teachers are not reduced in line with the district’s pupil decline, the district’s financial position will erode. This erosion will last until the decline in teachers is brought in line with the decline in pupils. With careful management, this balance should be achieved in one or two years so that the negative financial impact of the decline in students is a one-time

transition cost. In addition, proportional reductions in overhead are also needed to keep expenses in line.

### *Local Transportation Costs*

The bill codifies certain practices already in place at the Department of Education, including a series of administrative procedures for all students (including regular and non-public students) governing the payment in lieu of providing transportation. If, due to the impracticality of transporting certain students, the district does not provide transportation to any student in that district, then they may pay the parent of that community school student the amount of the average cost to all districts in the state to provide transportation in the preceding year. In addition, the community school can charge a fee for providing transportation for enrolled students who would not ordinarily be eligible for transportation.

Under current law, the department has no recourse if a school district does not comply with the guidelines regarding transportation. The bill allows the department to take action against a school district and require it to pay for transportation by deducting the cost of transporting the student (or students) from any payments made to the district under the transportation portion of the state funding formula.

The bill amends current law to require school districts to provide transportation to community school students on the same basis as to nonpublic school students. The exception to this would be if the district and the community school have entered into a contract under which the community school provides transportation to its students. The bill eliminates the current law that requires a \$450 per pupil payment for transportation costs when a community school assumes transportation responsibilities and requires any payments for eligible students or certain disabled students to be specified in the community school's contract.

### *Formula ADM*

The formula average daily membership (ADM) is calculated during the first full week in October. From that calculation, school districts receive money from the Department of Education based on the base cost funding amount for a given fiscal year. Community school students are added to this count, but only if they are enrolled before the first full week in October. The bill would require the Department of Education to adjust the formula ADM of the school district in which the community school student was excluded because the student was not enrolled by the first full week of October. The bill also requires the Department of Education to make the first payment to a community school within 30 days of receipt of its initial reported enrollment and to periodically make additional payments to the school that are adjusted for changes in the school's enrollment. The department then has to recalculate the school district's payments for the entire fiscal year. This provision will increase state funding to school districts by the base cost plus applicable weights for each community school student enrolled after the first week of October.

The bill also modifies payments for community school students who attend a joint vocational school. School districts are credited with 25 percent of the FTE of students in their districts who are attending a joint vocational school. Currently, if a student is enrolled in a community school and

attending a joint vocational school, the school district is still credited with the 25 percent FTE. The bill changes this so that the community school, not the school district is credited with the 25 percent FTE. This will not affect the state cost, but will result in any affected school districts receiving less state aid.

### **State Costs**

#### *Community Schools Oversight and Monitoring*

At present, the Office of School Options (OSO) at the Department of Education provides academic oversight for community schools. There are eight employees in the OSO, but their time is split between community schools, non-public schools, etc. The Office of School Finance (OSF) at the Department of Education provides fiscal oversight for community schools. The bill creates the Office of Community Schools (OCS) within the Department of Education and requires the OCS to oversee the sponsors of community schools and to provide technical assistance to schools and sponsors. Under the bill, sponsors include any educational service center, any school district, and any federally tax-exempt entity. The OCS would also be responsible for approving sponsors and monitoring the compliance of sponsors with their contract duties. Since the department is already performing most of these oversight duties, this would likely not affect the state, assuming that no new employees are hired for this purpose but, rather, employees in the OCS are transferred in from other offices and divisions in the department. If the number of community schools substantially increases, at some point additional staff will be needed to monitor the larger number of schools. If the intensity of supervision is increased, additional staff may be required.

Under the bill, the Department of Education must immediately suspend the operations of a community school that is in violation of health and safety regulations. The department can also suspend a community school's operations for violations of its contract, including violations of the provisions in its preliminary agreement (required under the bill to be a written document submitted to the department from the governing authority of the community school before a contract is approved). Part of the department's monitoring and oversight duties would be periodic audits of community schools and investigations into complaints against a community school.

If it is found that the department has overpaid a community school (i.e., made payments for more students than are actually enrolled in the school), then the department can recoup the money by decreasing the payments made in subsequent years until the balance is even. There is a provision in the bill that requires a community school contract to have a plan of action in the event the school has to shut down before the end of the school year.

#### *Community School Cap*

As stated above, the bill may or may not lead to more community schools opening in Ohio. The bill puts into place a cap of no more than 225 (97 more than the FY 2003 number of community schools) on the number of community school contracts that may be in effect at any given time until July 1, 2005, after which there will be no cap. There is no cap under current law. In FY 2003, there are approximately 31,000 students, with kindergarten students counted at the 100 percent level, in community schools, or about 1.8 percent, of the total ADM. If the number of community schools increased to 225, and the new schools continued to average about 250 students per school, the number

of students could increase by about 24,000 under the cap. After the cap is removed in two years, additional community schools could form.

Although there were only 92 community schools in operation in FY 2002, there were an additional 78 preliminary agreements and contracts that were awaiting approval by the Department of Education. These 78 preliminary agreements and contracts have been submitted to the Department of Education since the cap of 125 community schools was lifted on July 1, 2001. Looking at other states, and their experiences, might be instructive to Ohio in determining how many community schools could open in other areas of the state. Arizona, for example, has nearly 450 community schools with a total community school student population of approximately 95,000. Michigan, on the other hand, has about 200 community schools with a total community school student population of approximately 53,000. Nationwide, there are 2,125 community schools with a total community school student population of over 522,000. This averages out to around 245 students per community school. Ohio, Arizona, and Michigan all have similar student-school averages. Thus, there is a fairly broad range of possible outcomes. There is no reliable way to determine how many new community schools might be established in Ohio.

#### *Federal Title I Allowance*

Recent federal legislation, H.R. 1 (“Leave No Child Behind”), mandates that children in failing schools (according to the federal definition) may transfer to a charter/community school and the Title I funds allocated to that student follow the student to the community school. The bill underscores this requirement by stating that the Department of Education is required to include community schools in its annual allocation of federal Title I money.

#### *Community School Classroom Facilities Loan Guarantee Program*

The bill expands the Community School Classroom Facilities Loan Guarantee Program to all community schools. Previously, it was limited to “start-up” community schools. Loans made under the loan guarantee program can be used for new construction of school buildings.

#### *Community School Revolving Loan Fund*

The bill creates the Community School Revolving Loan Fund in the state treasury. Moneys in this fund come from any federal funds allocated to the state for the development and operation of community schools. These funds will be used to cover default on a loan made from the fund to the sponsor or governing authority of any start-up community school. The superintendent of public instruction must approve loans made under this provision.

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*HB0364EN/lb*



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## ***Detailed Fiscal Analysis***

Every school that operates a food service would be required to have an employee trained in the Heimlich maneuver present during periods when food is served at the school. These periods would include lunch at most schools and breakfast at some schools. This employee must be able to demonstrate ability to administer the Heimlich maneuver before being placed in the lunchroom. Fire departments offer training courses in the Heimlich maneuver and school districts, or individual schools, can contact their local fire departments about set classes, or a special class. These classes are usually free of cost, as they are part of community education programs that departments offer. School districts may also opt to send employees to a program like the one that the Red Cross offers, which not only offers training in the Heimlich, but also certification.

The certification programs combine the training of the Heimlich maneuver with CPR training. This is because if there is a food blockage that renders the patient unconscious, there are different methods for removing that blockage.

Local expenditures could reach as high as \$246,250 if every school in the State of Ohio (4,925 public, non-public, JVS and special schools) sends one employee to a higher priced certification course (the Red Cross class for Child CPR at \$50 per person). To ensure full lunch coverage some schools may choose to train more than one person. Also schools may already have staff assigned in this manner or have some staff trained by these programs that might be assigned.

For this estimate it is assumed that when snacks are served in classrooms or when sack lunches are consumed in the classroom, this requirement will not apply.

The bill also limits the potential liability of non public schools and their employees in a manner similar to the liability protections available to public schools and their employees under the Political Subdivision Sovereign Immunity Law. This change has no fiscal impact.

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*HB0384EN.doc/lb*



- School districts and other local governments stand to lose revenue from property taxes due to the exemptions granted in this bill. Statewide, school districts benefit from approximately 60 percent of all property taxes levied. The remaining 40 percent benefit other local governments, such as counties and municipalities.
- As a result of the property tax exemptions, some school districts could see an increase in base cost funding, which is funded by the state. This is because the exemption would lower the taxable property valuation. School districts that are “on the guarantee” would not see an increase in funding.

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## ***Detailed Fiscal Analysis***

Sub. H.B. 416 exempts from taxation the property of retirement homes, nursing homes, residential care facilities, adult care facilities and independent living facilities that belong to a not for profit, tax-exempt organization, association or trust that provides care exclusively to its retired, aged, or infirm members on account of their services without compensation.

The fiscal impact of this bill is difficult to determine. It is unclear how many of these residential facilities exist in the state. It is further unclear how many of these facilities are currently on the tax list of the counties in which they are located. Often the occupants of such facilities are residents of the facility where they are performing services of an educational or charitable nature. While the residents are “working” the properties are exempt from taxation. It is when an occupant retires that the facility, or a portion of the facility occupied by the retiree, becomes taxable, under current law. County auditors are often unaware of changes in the status of the occupants of these facilities, thus resulting in a full tax exemption. In cases where the properties *are now on* the tax list, the exemption will have a fiscal impact on the State of Ohio GRF, individual school districts, and local governments that levy property taxes.

The 10 percent rollback on real property taxes and the state base cost funding for Ohio schools are both financed by the GRF. By reducing the amount of property taxes due, the amount of the rollback would also be reduced. On the other hand, the exemption would lead to a lower property tax valuation in the corresponding school district, and this could cause the state’s base cost funding payments to the school district to increase.

The cost of the proposed exemption for retirement homes, nursing homes, residential care facilities, adult care facilities and independent living facilities will depend upon the assessed value of such properties and the tax rates in the corresponding taxing districts. LSC does not know how many of these properties exist in the state. Table 1, below, demonstrates the effects of three hypothetical exemptions. Example A displays the typical effects of a \$140,000 property exempt from property taxation. Example B displays the typical effects of a \$400,000 property exempt from property taxation. Example C displays the typical effects of a \$1.5 million property exempt from property taxation.<sup>1</sup>

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<sup>1</sup> The Congregation of Saint Joseph is one known property that would qualify for the property tax exemption under this bill. The Congregation of Saint Joseph has a total market value of \$12.6 million. The taxable portion of the

| <b>Table 1: Examples of Tax Exemptions for Certain Not-for-Profit Organizations That Provide Care for Retired Members</b> |                  |                  |                  |
|---|------------------|------------------|------------------|
|   | <b>Example A</b> | <b>Example B</b> | <b>Example C</b> |
| Property Value  | \$140,000        | \$300,000        | \$1,500,000      |
| Assessed Value  | \$49,000         | \$105,000        | \$525,000        |
| 1999 State Average "Effective Tax Rate" For Class I Real Property   | 49.81 Mills      | 49.81 Mills      | 49.81 Mills      |
| <b>Tax Revenue</b>  |                  |                  |                  |
| <b>Taxes Due Without Exemption</b>  |                  |                  |                  |
| <i>Total Taxes</i>  | \$2,441          | \$5,230          | \$26,150         |
| <i>Portion Paid by Taxpayer</i>   | \$2,197          | \$4,707          | \$23,535         |
| <i>Portion Paid by State</i>  | \$244            | \$523            | \$2,615          |
| <b>Loss of Tax Revenue Due to Exemption</b>   |                  |                  |                  |
| <i>School District Loss</i>   | \$1,464          | \$3,138          | \$15,690         |
| <i>Other Local Government Loss</i>  | \$976            | \$2,092          | \$10,460         |
| <b>Increase in Base Funding Due to Exemption</b>  |                  |                  |                  |
|   | \$1,127          | \$2,415          | \$12,075         |
| <b>Net Affect of the Tax Exemption</b>  |                  |                  |                  |
| Net Loss to School Districts  | \$337            | \$723            | \$3,615          |
| Net Loss to Other Local Governments   | \$976            | \$2,092          | \$10,460         |
| Net Cost to the GRF   | \$883            | \$1,892          | \$9,460          |

As shown in Example A, a property with a true market value of \$140,000 has an assessed value of \$49,000, or 35 percent of the true market value. Using the state average effective tax rate, this property would generate \$2,441 in property tax revenue. (Due to the 10 percent rollback, the property owner would pay \$2,197 of this and the GRF would pick up the remaining \$244.)

With the property tax exemption no tax revenue would be generated by this property. Approximately 60 percent of real property taxes benefit school districts, while the remaining 40 percent benefit other local governments such as counties and municipalities. Thus, the exemption of a property with a value of \$140,000 will reduce property tax revenue for a school district by approximately \$1,464. It will reduce property tax revenue for other local governments by approximately \$976. At the same time, the GRF saves \$244.

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property has a market value of \$1,497,114. Under the bill, the entire property would be exempt from property taxation. Example C is modeled after this "real life" example.

An additional wrinkle is added by the impact of the reduced property value on school funding and the calculation of state base cost funding. The exemption reduces the total property value in the school district by \$49,000 –thus increasing the base cost funding to the school district by \$1,720.

The net effect of the exemption in Example A is a loss to the school district of \$337, a loss to the other local governments of \$976, and an additional cost to the GRF of \$883.

*The enacted bill limits the exemption to facilities that satisfy the definition of a “nursing home,” “residential care facility,” or “adult care facility” and are owned by tax exempt organizations, associations or trusts for the benefit of their members who are retired, aged, or infirm in consideration of their uncompensated service. It is the understanding of LSC that relatively few of such retirement facilities exist, and thus, the impact to local governments, school districts and the State of Ohio will be smaller than originally thought.*

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- Real property acquisitions undertaken by the Department of Transportation (DOT) are covered under federal law. DOT currently follows the procedures outlined in the bill, such as providing second appraisals, and thus would not be subjected to increased costs as required by the bill's provisions.

### ***Local Fiscal Highlights***

| LOCAL GOVERNMENT              | FY 2002            | FY 2003            | FUTURE YEARS       |
|-------------------------------|--------------------|--------------------|--------------------|
| <b>Political subdivisions</b> |                    |                    |                    |
| Revenues                      | - 0 -              | - 0 -              | - 0 -              |
| Expenditures                  | Potential increase | Potential increase | Potential increase |

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- Property acquisition costs for these entities may also increase, as they would be required to adhere to the new appraisal standards prescribed for state agencies. Counties, municipalities, and other units of government such as sanitary sewer districts and conservancy districts are all typically involved in property acquisition.
- Although the number of property acquisitions in negotiation varies each year, it is likely that the cost of providing second or updated appraisals could increase real estate acquisition costs.
- Real property acquisitions undertaken by political subdivisions in conjunction with the Department of Transportation (DOT) are covered under federal law. The procedures outlined in the bill, such as providing second appraisals, are currently carried out and thus would not subject those political subdivisions to increased costs as required by the bill's provisions.

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## ***Detailed Fiscal Analysis***

The bill modifies aspects of current law that govern the way in which state agencies and political subdivisions acquire real estate for public purposes. There are now certain guidelines that agencies and public entities must follow in the appraisal and acquisition negotiation process. The bill modifies these guidelines and requires state agencies and political subdivisions to do the following:

- Furnish the owner a copy of the appraisal if the property is appraised at a value over \$10,000;
- Obtain updated appraisals when the existing appraisal is more than two years old or the current owner presents evidence that the value of the property has changed since the original appraisal was performed; and
- Require that the appraised value be used as the minimum offer when acquisition negotiations begin.

The provisions listed above could increase the costs of real estate acquisition, both for state agencies and political subdivisions. These added costs may be included in requests for capital appropriations, both on the state and local level.

### **Furnishing a copy of the appraisal if the property is appraised above \$10,000**

Typically, an agency or political subdivision does not provide a copy of an appraisal to a property owner. If an agency or political subdivision were required to do so, it is likely that a property owner 1) would contest the appraisal, or 2) take a firmer stance in negotiating the sale price of property. State agencies or political subdivisions customarily show appraisals to owners only when the proposed acquisition results in eminent domain proceedings. In a few cases, limiting state agencies' leverage to negotiate might have the effect of increasing overall property acquisitions costs.

### **Updating appraisals if the property owner demonstrates valid reasons why previous one is incomplete or outdated**

The bill outlines conditions under which a state agency or political subdivision would have to obtain a new appraisal, and this provision may add additional costs to the acquisition process. Costs range from \$200-\$10,000 per appraisal according to the size and type of property—industrial, commercial, or residential—and the methodology employed. Second appraisals or updates required under this provision would impose a financial cost upon political subdivisions that do not conduct second or updated appraisals except under unusual circumstances. Under current law, political subdivisions conduct second or updated appraisals at their discretion; this provision in the bill would mandate them to conduct second or updated appraisals.

For example, in urban Franklin County, approximately 115 appraisals were contracted out for property acquisition during calendar year 2001 with costs ranging from \$1500-\$4000 for each appraisal. Franklin County estimates that twelve to thirteen percent of their appraisals would need a second or updated appraisal under the bill's provision. Based on these estimates, Franklin County would be required to pay an additional \$20,700 for these appraisals. In order for a local impact determination to be assessed upon a political subdivision, a threshold of \$5,000 must be surpassed; Franklin County would have a local impact determination as it surpasses the minimum threshold.

Delaware County conducted twenty-three property acquisitions during calendar year 2001 with costs ranging from \$800 for residential appraisals to \$3000 for commercial appraisals. Delaware County would need to conduct only two commercial appraisals, seven residential appraisals or any combination thereof to surpass the \$5,000 local impact determination threshold.

**Requiring that the established appraised value be the minimum offer for real estate acquisition**

A state agency's or political subdivision's negotiations to buy residential real estate usually begins and ends with an offer that is equivalent to the appraised value of the property; commercial real estate acquisitions generally begin negotiations below the appraised value but increase up to the appraised value through the negotiation process. By requiring that the appraised value be the minimum bid, the cost of real estate acquisitions, particularly commercial property acquisitions, could increase.

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## ***Local Fiscal Highlights***

| <b>LOCAL GOVERNMENT</b>            | <b>FY 2003*</b> | <b>FY 2004</b>  | <b>FUTURE YEARS</b>  |
|------------------------------------|-----------------|---|--|
| <b>Counties and Municipalities</b> |                 |   |  |
| Revenues                           | - 0 -           | Potential gain, possibly exceeding minimal in some jurisdictions  | Potential annual gain, possibly exceeding minimal in Some jurisdictions  |
| Expenditures                       | - 0 -           | Factors increasing and decreasing costs, with net fiscal effect uncertain, but not likely to exceed minimal in most local jurisdictions | Factors increasing and decreasing costs, with net annual fiscal effect uncertain, but not likely to exceed minimal in most local jurisdictions |

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

\*The bill takes effect January 1, 2004.

- **Financial sanctions.** The bill: (1) increases the maximum fine that a court may impose for a minor misdemeanor from \$100 to \$150, and (2) modifies the restitution procedure. These changes make it possible for local governments to generate additional revenues with what appear to be little in the way of any additional administrative burdens. Available data suggest local jurisdictions statewide could collect up to \$900,000 or more annually by increasing the maximum fine for a minor misdemeanor.
- **Mayor's courts.** There should not be any significant problems or costs for most mayor's courts to keep track of cases and outcomes, and then periodically file the appropriate reports with the Supreme Court of Ohio, BCII, and the Bureau of Motor Vehicles (BMV). This means that the vast majority of mayor's courts should be able to report the necessary caseload data to the Supreme Court of Ohio, BCII, and the BMV in the normal course of doing their day-to-day business, and should not have to hire new administrative personnel in response to the reporting duty imposed by the bill. If this reporting duty does in fact increase the annual operating expenses of mayor's courts, it seems unlikely that those costs would exceed minimal in most jurisdictions.
- **Residential sanctions.** The bill expands the range of residential sanctions available to a court, thus creating at least two possible effects. First, as opposed to sentencing a misdemeanant to a relatively short jail stay as it might under current law, a court could opt under the bill to sentence that misdemeanant to a longer stay in a more costly residential sanction. Second, the expansion of the residential sanction continuum could result in "net-widening." In other words, it may pull offenders who might otherwise be in less restrictive and cheaper forms of probation into more restrictive and expensive sanctions. The practical effect of these two potentialities would be to increase the annual operating expenses of county and municipal criminal justice systems. What that annual cost for those local governments might be is uncertain.
- **Nonresidential sanctions.** The bill generally consolidates and modifies the range of nonresidential sanctions available to a court, thus creating at least three possible effects. First, the annual operating costs of local probation departments may rise, as court personnel could end-up with more offenders and more programs to supervise. Second, if courts opt to use community service in lieu of all or part of a fine for a minor misdemeanor, then some revenues that might otherwise have been collected could be lost. Third, and conversely, courts could try and collect fees from the offenders that participate in some of these nonresidential sanctions. The net fiscal effect of these three

potentialities on the annual revenues and operating expenses of county and municipal criminal justice systems is uncertain.

- **Right to a jury trial.** The right to a jury trial would not extend, under the bill, to those charged with minor misdemeanors (up to \$150 fine in the bill), and it also appears intended to apply to those charged with a violation that carries a fine of \$1,000 or less and no potential term of incarceration. The net effect of this provision will be to further reduce the small number of jury trials that currently occur in cases involving fine-only offenses, which might, at most, produce a minimal annual savings in the adjudication and prosecution costs of some counties and municipalities.
- **Victim notification.** The precise fiscal effect of this victim notification provision on county and municipal criminal justice systems is difficult to estimate because it appears that, to some degree, the notification requirement is permissive, as it requires a prosecutor to perform this duty “to the extent practicable.” This would seem to give a local prosecutor considerable flexibility in how this notification requirement is performed. Thus, the associated administrative burden and cost for any given county or municipality is uncertain. That said, in some local jurisdictions, particularly large urban areas with hundreds of theft and fraud cases, the cost of providing these notices might easily exceed minimal, meaning in excess of \$5,000 annually.
- **Matter harmful to juveniles.** Discussions with various county prosecutors and local law enforcement agencies on prior occasions with regard to similar changes to various definitions in the state’s Sex Offense Laws suggest that the bill’s sex offense-related provisions seem unlikely to create any dramatic direct or immediate fiscal effect for local governments because it will not noticeably affect the number of persons who are arrested and successfully prosecuted for violating the state’s Sex Offense Laws. In fact, one might reasonably argue that the bill provides clarification that will speed the progress of some cases through the criminal justice system. It might accomplish that by minimizing the amount of court time that would otherwise be devoted to arguing whether certain materials and actions meet the definition that would allow a person to be charged with a sex offense.

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## ***Detailed Fiscal Analysis***

The bill makes changes relative to the Misdemeanor Sentencing Law, the Felony Sentencing Law, and miscellaneous other criminal law matters, including the right to a jury trial. From among the many parts of the bill, this fiscal analysis focuses on the following: (1) residential sanctions, (2) nonresidential sanctions, (3) financial sanctions, (4) mayor's courts, (5) right to a jury trial, (6) victim notification, and (7) matter harmful to juveniles.

The parts of the bill that are the focus of this fiscal analysis contain provisions that could: (1) increase, as well as decrease, the annual expenditures of county and municipal criminal justice systems, and (2) generate additional revenues for counties and municipalities. These revenue and expenditure possibilities create a bit of an analytic problem, as there is no readily available statewide database that contains information on local charging and sentencing practices. Thus, calculating the net fiscal effect of these various possible revenue and expenditure outcomes on a given local government becomes extremely difficult. That said, it must be noted that there could be local governments where the net fiscal effect of the revenue and expenditure changes produced by the bill will result in an overall increase in their annual criminal justice system operating expenses, but such an increase would not be likely to exceed minimal in most jurisdictions.

### **Residential sanctions**

In the matter of misdemeanor sentencing, the bill provides courts with a continuum of residential sanctions that include jails, minimum-security jails, halfway houses, and alternative facilities. The latter two types of residential sanctions would be new to misdemeanor law. Under current practice, most misdemeanants are fined and perhaps placed on probation; few are sentenced to jail or other nonresidential sanctions.

At least two possible effects could stem from expanding the range of residential sanctions available to a court. First, as opposed to sentencing a misdemeanant to a relatively short jail stay as it might under current law, a court could opt under the bill to sentence that misdemeanant to a longer stay in a more costly residential sanction. Second, the expansion of the residential sanction continuum could result in "net-widening." In other words, it may pull offenders who might otherwise be in less restrictive and cheaper forms of probation into more restrictive and expensive sanctions. The practical effect of these two potentialities would be to increase the annual operating expenses of county and municipal criminal justice systems. What that annual cost for those local governments might be is uncertain.

### **Nonresidential sanctions**

The bill generally gathers all existing nonresidential misdemeanor sanctions into one section of the Revised Code. This list would include, but not be limited to, day reporting, house arrest, community service, intensive probation supervision, basic probation supervision, electronic monitoring, driver's license restrictions, and victim-offender mediation. The bill also: (1) increases the maximum possible term of community service for a misdemeanor of the first degree to 500 hours from 200 hours, and (2)

permits the imposition of a term of community service that may not exceed 30 hours in lieu of all or part of a fine for a minor misdemeanor.

At least three possible effects could stem from consolidating and modifying the range of nonresidential sanctions available to a court. First, the annual operating costs of local probation departments may rise, as court personnel could end-up with more offenders and more programs to supervise. Second, if courts opt to use community service in lieu of all or part of a fine for a minor misdemeanor, then some revenues that might otherwise have been collected may be lost. Third, and conversely, courts could try and collect fees from the offenders that participate in some of these nonresidential sanctions. The net fiscal effect of these three potentialities on the annual revenues and operating expenses of county and municipal criminal justice systems is uncertain.

### **Financial sanctions**

In the matter of financial sanctions, the bill most notably: (1) increases the maximum fine that a court may impose for a minor misdemeanor from \$100 to \$150, (2) makes changes to improve the collection of fines and restitution, and (3) expands the misdemeanor restitution law to cover more losses.

### **Minor misdemeanor fines**

Based on misdemeanor data collected by the Ohio Criminal Sentencing Commission (OCSC) in 1994, an estimated 7,190 criminal and 10,500 traffic cases were at the maximum fine for a minor misdemeanor of \$100. Presumably, as a result of the bill, some local jurisdictions will choose to charge higher fine amounts for minor misdemeanors and thus collect more revenues.

For example, if one assumes that, in the above noted criminal and traffic cases already at the \$100 maximum fine for a minor misdemeanor, the fine for a minor misdemeanor was increased to the \$150 maximum available under the bill, then those local jurisdictions as a group could gain an additional \$884,500 in fine revenues annually.

It is also possible that, in those local jurisdictions that increase the fine for a minor misdemeanor above the existing \$100 maximum, the amount of fine revenue collected in some cases could drop and the cost of processing some cases could increase. The former might happen because some offenders may be unwilling or financially unable to pay the higher fine amount. The latter might happen because some offenders might opt to contest a violation rather than simply pay the higher fine.

### **Restitution**

The bill: (1) broadens the concept of restitution, (2) permits the court to order the offender pay a surcharge of not more than 5% to cover the costs of collecting restitution, and (3) allows a victim, or a prosecuting attorney at the request of the victim, to file a motion for modification of any restitution order. These changes could increase local government costs associated with administering the restitution procedure as well as generate additional revenues gained from the imposition of a collection surcharge.

As this time, however, there is no evidence suggesting that these changes would create any discernible effect on local government revenues and expenditures.

### Mayor's courts

The bill requires mayor's courts to: (1) register annually with the Supreme Court of Ohio, (2) report quarterly to the Supreme Court of Ohio on all cases filed, pending, and terminated in the mayor's court, and (3) report to the Bureau of Criminal Identification and Investigation (BCII) on every conviction in the mayor's court for an offense that is a misdemeanor on a first offense and a felony on a subsequent offense. The bill also permits mayor's courts to order the clerk of the court to send certain information to the Bureau of Motor Vehicles. Analogous permissive authority already exists in current law relative to the operations of municipal and county courts.

Under current law, the Supreme Court, courts of appeals, courts of common pleas, municipal courts, county courts, and the Court of Claims all file reports on cases filed, pending, and terminated. No such caseload data, however, is required to be filed by mayor's courts, and thus, there is no statewide record of the number of cases filed in mayor's court or the manner in which those cases were either disposed of or resolved.

The number of mayor's courts in existence appears to vary from year-to-year. Thus, the number of mayor's courts that are in existence at this time is unclear, but is most likely somewhere around 430.

Conversations with experts familiar with the administration of mayor's courts across the state indicate that most, likely in excess of 95%, of the mayor's courts utilize modern computer systems. Given this reality, there should not be any significant problems or costs for most mayor's courts to keep track of cases and outcomes, and then periodically file the appropriate reports with the Supreme Court of Ohio and BCII. This means that the vast majority of mayor's courts should be able to report the necessary case data to the Supreme Court of Ohio and BCII in the normal course of doing their day-to-day business, and should not have to hire new administrative personnel in response to the reporting duty imposed by the bill. If this reporting duty does in fact increase the annual operating expenses of mayor's courts, it seems unlikely that those costs would exceed minimal in most jurisdictions.

The Supreme Court of Ohio has indicated that, with the additional caseload data to be submitted quarterly by more than 400 mayor's courts, it will need to hire two additional clerks. Each clerk would be paid around \$25,500 plus benefits, estimated at 25% of salary (\$6,375), which means that the annual payroll costs associated with two clerks will total approximately \$63,750. Related maintenance and equipment costs probably bring the total additional annual operating expenses for the Supreme Court of Ohio into the neighborhood of \$100,000, a cost that would presumably be borne by its General Revenue Fund (GRF) budget.

It would appear that BCII should be able to incorporate the reports to be filed by mayor's courts into ongoing data management operations with little or no discernible effect on its annual costs of doing business.

### **Right to a jury trial**

Under current law, the accused has the right to a jury trial in any criminal case when the potential penalty exceeds that of a minor misdemeanor, or \$100. This precludes jury trials for minor misdemeanors. The bill limits the right to be tried by a jury to cases in which the offense carries a potential fine of more than \$1,000. Thus, the right to a jury trial would not extend, under the bill, to those charged with minor misdemeanors (up to \$150 fine in the bill), nor apparently to those charged with offenses that carry a fine of \$1,000 or less and no potential term of incarceration.

The net effect of this provision will be to further reduce the small number of jury trials that currently occur in cases involving fine-only offenses, which might, at most, produce a minimal annual savings in the adjudication and prosecution costs of some counties and municipalities. Individuals familiar with the operations of the Franklin County Municipal Court have stated that: (1) very few fine-only offense cases ever go to trial, (2) most persons charged with fine-only offenses do not want to take the time away from work or incur the expense of counsel to represent them before a jury, and (3) many persons simply want to pay the fine and resolve the issue.

### **Victim notification**

Under current law, individuals against whom felony offenses and certain misdemeanor offenses are committed are permitted to request certain notifications from various components of the local criminal justice system. Under the bill, a prosecutor, to the extent practicable, is required to notify an individual against whom any misdemeanor offense is committed, after the prosecution of the case has commenced, of the individual's right to make an oral or written statement to the court if the defendant is convicted or pleads guilty to the offense.

The precise fiscal effect of this victim notification provision on county and municipal criminal justice systems is difficult to estimate because it appears that, to some degree, the notification requirement is permissive, as it requires a prosecutor to perform this duty "to the extent practicable." This would seem to give a local prosecutor considerable flexibility in how this notification requirement is performed. Thus, the associated administrative burden and cost for any given local county or municipality is uncertain. That said, in some local jurisdictions, particularly large urban areas with hundreds of theft and fraud cases, the cost of providing these notices might easily exceed minimal, meaning in excess of \$5,000 annually.

### **Matter harmful to juveniles**

On prior occasions, LSC fiscal staff has discussed similar proposed changes to the state's Sex Offense Laws with various county prosecutors and local law enforcement agencies. Based on those conversations, it seems highly unlikely that these changes will create any dramatic direct or immediate fiscal effect for the state or local governments because it will not noticeably affect the number of persons who are arrested and successfully prosecuted for violating the state's Sex Offense Laws.

These discussions also suggested that some of these changes largely codify current practice in many local jurisdictions relative to the arrest and prosecution of individuals for violating the state's Sex Offense Laws. Thus, the bill is not expected to increase the number of criminal cases that will be filed or prosecuted. In fact, one might argue that the bill provides clarification that will speed the progress of some cases through the criminal justice system. It might accomplish that by minimizing the amount of court time that would otherwise be devoted to arguing whether certain materials meet the definition that would allow a person to be charged with a sex offense.

Prosecutors in Scioto, Hamilton, and Cuyahoga counties have told LSC fiscal staff that they already successfully prosecute cases involving material on a computer device and/or images transmitted through the Internet as sex offenses involving the dissemination of matter harmful to a child or pandering obscenity. In Cuyahoga County, there were between 12 and 18 such cases during calendar year 2000. The City of Xenia Police Department reported 13 arrests in calendar year 2000 involving computer-related sex crimes. Of these 13 arrests in Xenia, eight were convicted of attempted corruption of a minor (i.e. on-line "chat" discussions with the intent to meet and engage in sexual conduct), a felony of the fourth degree, and five were convicted of pandering sexually oriented matter involving a minor, a felony of the second degree. Thus, these local experiences suggest that local law enforcement does arrest, and prosecutors do convict, individuals under current law for disseminating and pandering sexually oriented matter using personal computers and the Internet.

Thus, it appears that the expansions and clarifications will largely clarify any ambiguities in the law that may have been previously debated in court, and by doing so potentially expedite the processing of some sex offense cases.

*LSC fiscal staff: Holly Simpkins, Budget Analyst  
Laura Potts, Budget Analyst  
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## ***Local Fiscal Highlights***

| LOCAL GOVERNMENT     | FY 2002 | FY 2003  | FUTURE YEARS                     |
|----------------------|---------|--|----------------------------------|
| <b>Butler County</b> |         |  |                                  |
| Revenues             | - 0 -   | - 0 -  | - 0 -                            |
| Expenditures         | - 0 -   | \$140,482 increase, including a one-time reimbursement of \$55,425 paid to the state | \$85,057 or more annual increase |

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- The annual salary and benefits for one additional court of common pleas judge will cost Butler County \$15,897, which is comprised of \$14,000 in annual base salary, plus 13.55 percent, or \$1,897, for PERS benefits. The court also anticipates hiring a judicial assistant, as well as a bailiff, and believes that no other employees will be immediately necessary. The annual salary and benefits for these two support personnel will cost Butler County \$69,160.
- The bill requires Butler County to reimburse the state for the state's portion of the compensation of the new judge of the Butler County Court of Common Pleas for services that judge performs from January 3, 2003 through June 30, 2003. The net fiscal effect of this provision is to shift the burden of covering the first six-month period of salary and benefits estimated at \$55,425 in FY 2003 from the state to Butler County. This analysis assumes that Butler County would reimburse the state sometime during the county's FY 2003.
- As adequate courtroom and administrative space for the new judge and staff already exist, no new construction is anticipated.

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## ***Detailed Fiscal Analysis***

**Judicial Salary.** The salary of a common pleas court judge consists of a state share and a local share paid by the county. The local contribution varies slightly depending on a county's population as determined by the decennial census. This local amount is based on eighteen cents per capita for the county's population, and cannot be less than \$3,500 or more than \$14,000. The state share is equal to the total salary minus the local contribution.

The salary for a common pleas court judge in calendar year 2003 will be \$109,800. Pursuant to Sub. H.B. 712 of the 123rd General Assembly that salary will increase to \$113,100 in calendar year 2004. The state share of the judicial salary will then continue to increase annually, through calendar year 2009, according to the smaller of the Consumer Price Index or 3 percent, as established in Sub. H.B. 712.

Based on the most recent census data, Butler County would be required to pay the \$14,000 maximum total annual contribution towards the new common pleas court judge's salary.

The state will cover the remainder of the judicial salary. In FY 2003, the state will pay the judge a total of \$47,900 in salary. This is because the judge's term begins January 3, 2003 and only six months will be left before the close of FY 2003. In FY 2004, the state will pay the judge a total of \$97,450 in salary, which reflects a six-month period under the calendar year 2003 salary schedule and a six-month period under the calendar year 2004 salary schedule. This mixing of the state's fiscal year and judicial salary increases that are tied to calendar years will continue through calendar year 2009.

The bill also notably requires Butler County to reimburse the state for the state's portion of the compensation of the new judge of the Butler County Court of Common Pleas for services that judge performs from January 3, 2003 through June 30, 2003. The net fiscal effect of this provision is to shift the burden of covering the first six-month period of salary and benefits estimated at \$55,425 in FY 2003 from the state to Butler County. This estimated amount to be reimbursed by Butler County reflects the \$47,900 state portion of the judge's salary for final six months of FY 2003 plus 13.31 percent for PERS and 2.4 percent for other miscellaneous administrative costs (described below).

**PERS.** State and local elected officials are exempt from membership in PERS (Public Employees Retirement System), unless they choose to become members. Most do. Therefore, this analysis includes PERS payments, which assumes that the new judge, created by the bill, will join PERS. The state contributes at the rate of 13.31 percent of its supplemental salary amount, while the county pays 13.55 percent on its base share amount. Under that PERS contribution formula, Butler County will pay \$1,897 annually. In FY 2003, the state's contribution will total \$6,375. Starting with FY 2004, the state will contribute \$12,970, with the total contribution increasing annually thereafter as judicial salaries rise.

In addition to PERS, the state also makes contributions for other purposes: 1.45 percent of gross salary for Medicare for all employees hired after April 1986, 0.67 percent for workers' compensation, and 0.28 percent for the administration of the state's Central Accounting System (CAS).

These contributions, in total, comprise about 2.4 percent of the state's portion of the judicial salary. For the additional judge to be seated in Butler County, these miscellaneous annual contributions will cost the state \$1,150 in FY 2003. Starting with FY 2004, these miscellaneous annual contributions will cost the state \$2,339, with that total amount increasing annually thereafter as judicial salaries rise.

**Additional Butler County Costs.** An additional judge will likely create some ongoing additional costs for Butler County in terms of increased staff. The court anticipates hiring a judicial assistant, as well as a bailiff, and believes that no other employees will be immediately necessary. The annual salary and benefits for these two support personnel will cost Butler County \$69,160. As adequate courtroom and administrative space for the new judge and staff already exist, no new construction is anticipated.

*LSC fiscal staff: Joseph Rogers, Budget Analyst*

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- **DRC administrative burdens.** The Department of Rehabilitation and Correction (DRC) believes that many of the bill's statutory changes will simplify and clarify its current administrative procedures and practices, and, generally speaking, will not noticeably affect its ongoing costs of doing business, with the possible exception of the auditing of community-based correctional facilities (CBCFs) that appears likely to increase annual DRC expenditures.
- **Incarceration costs.** As a result of the bill, it is also possible that additional offenders will be sentenced to prison or sentenced to prison for longer stays than would have been the case under current law, the fiscal effect of which would be to increase DRC's annual GRF-funded incarceration and post-release control costs. The number of affected offenders, however, appears to be small enough that any increase in the Department's annual expenditures would be minimal at most.
- **CBCF audits.** Presumably, the Auditor of State will charge the appropriate state agency or local government for the performance of mandated biennial financial audits and permissive performance audits of CBCFs. A performance audit is much more extensive than a financial audit in that it examines how well a CBCF meets its programmatic goals. A performance audit can typically take months to perform and potentially cost in the tens of thousands of dollars to complete. As of this writing, it is unclear as to whether the annual costs incurred by the Auditor of State in performing these audits will exceed minimal on an ongoing basis, meaning in excess of \$100,000 annually. It appears that any costs incurred by the Auditor of State in performing these audits are typically charged to one of two funds: (1) Fund 109 (Public Audit Expense-Intrastate) in the case of audits performed for a state agency, and (2) Fund 422 (Public Audit Expense-Local Government) in the case of audits performed for a political subdivision. Auditing service payments from state agencies and local governments are deposited in Fund 109 and Fund 422, respectively.
- **Court cost revenues.** As a result of violations of the bill's prohibitions, additional court cost revenues may be generated for the state. As it appears that the number of affected cases will be relatively small, the amount of additional locally collected state court cost revenues that might be collected and deposited annually to the credit of the GRF and the Victims of Crime/Reparations Fund (Fund 402) is likely to be no more than negligible.

## ***Local Fiscal Highlights***

| LOCAL GOVERNMENT                   | FY 2003  | FY 2004  | FUTURE YEARS  |
|------------------------------------|--|--|---|
| <b>Counties and Municipalities</b> |  |  |   |
| Revenues                           | Potential gain, not likely to exceed minimal                       | Potential gain, not likely to exceed minimal                       | Potential gain, not likely to exceed minimal annually                       |
| Expenditures                       | Potential increase, possibly exceeding minimal in certain counties | Potential increase, possibly exceeding minimal in certain counties | Potential increase, possibly exceeding minimal annually in certain counties |

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- **DRC administrative changes.** Many of the bill’s statutory changes simplify and clarify the Department of Rehabilitation and Correction’s current administrative procedures and practices, and, generally speaking, will not noticeably affect the ongoing costs of doing business for local criminal justice systems.
- **CBCF audits.** In the matter of paying for the costs associated with the performance of biennial financial audits of CBCFs, of which there are currently 18 located around the state, it appears DRC’s intent is that it would ultimately pay for any financial audit costs. As of this writing, it is unclear as to what entity would have to pay for the cost of conducting a performance audit, but appears likely to fall on either DRC or the local judicial corrections board, perhaps even if such an audit is undertaken under the Auditor of State’s own initiative. While the costs associated with a financial audit may not be significant, a performance audit is much more extensive in that it examines how well a CBCF meets its programmatic goals. A performance audit can typically take months to perform and potentially cost in the tens of thousands of dollars to complete.
- **Criminal caseload expenditures.** To the degree that the bill’s prohibitions affect local criminal justice expenditures, it might be to increase the annual costs that a county or municipality incurs in prosecuting, adjudicating, defending (if the violators are indigent), and sanctioning offenders. If the criminal justice expenditures of these local governments do in fact increase, any such rise should be no more than minimal annually given the likelihood that the number of cases that could be affected by the bill’s prohibitions in any given jurisdiction appears to be relatively small.
- **Local revenues.** As a result of violations of the bill’s prohibitions, additional court cost and fine revenues may be generated for counties and municipalities. As it appears that the number of affected cases will be relatively small in any given local jurisdiction, the amount of court cost and fine revenues that actually may be collected annually by counties and municipalities is unlikely to exceed minimal.

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## ***Detailed Fiscal Analysis***

### **DRC operations**

The bill amends existing law largely related to the Department of Rehabilitation and Correction (DRC) in the matters of: (1) the treatment of prisoners, (2) the operations of the Adult Parole Authority, and (3) the confidentiality of certain reports and information. The Department believes that these statutory changes will simplify and clarify its current administrative procedures and practices, and, generally speaking, will not noticeably affect its ongoing costs of doing business, nor those of county and municipal criminal justice systems. That said, the auditing provisions of the bill in relation to community-based correctional facilities (CBCFs) carries the potential to create some noticeable additional annual operating expenses for DRC, and relatedly the Auditor of State, and possibly some counties.

### **CBCF audits**

Under the bill, the Auditor of State will be required to: (1) conduct financial audits of CBCFs at least once every two years using DRC-supplied quarterly financial reports, and (2) conduct a performance audit of a CBCF at the request of DRC or the local judicial corrections board, or may undertake such a performance audit on its own initiative. A performance audit is much more extensive than a financial audit in that it examines how well a CBCF meets its programmatic goals. A performance audit can typically take months to perform and potentially cost in the tens of thousands of dollars to complete. Currently, there are 18 CBCFs located around the state.

Presumably, the Auditor of State will charge the appropriate state agency or local government for the performance of these mandated biennial financial audits and permissive performance audits. As of this writing, it is unclear as to whether the annual costs incurred by the Auditor of State in performing these audits will exceed minimal on an ongoing basis, meaning in excess of \$100,000 annually. It appears that any costs incurred by the Auditor of State in performing these audits are typically charged to one of two funds: (1) Fund 109 (Public Audit Expense-Intrastate) in the case of audits performed for a state agency, and (2) Fund 422 (Public Audit Expense-Local Government) in the case of audits performed for a political subdivision. Auditing service payments from state agencies and local governments are deposited in Fund 109 and Fund 422, respectively.

In terms of costs to DRC, the requirement that it provide the Auditor of State with quarterly financial reports should not generate any additional departmental expenses since it already collects and compiles such data under current accounting practices. In the matter of paying for the costs associated with the performance of financial audits, it appears DRC's intent is that it would ultimately pay for any financial audit costs. As of this writing, it is unclear as to what entity would have to pay for the cost of conducting a performance audit, but appears likely to fall on either DRC or the local judicial corrections board, perhaps even if such an audit is undertaken under the Auditor of State's own initiative.

### **Criminal offenses**

The bill also:

- (1) Expands the offense of sexual battery to additionally prohibit certain persons from engaging in sexual conduct with another while in a detention facility. Under existing law, violating the sexual battery prohibition is a felony of the third degree, which carries a maximum individual fine of \$10,000 and a possible definite prison term of 1 to 5 years.
- (2) Creates the offense of illegal conveyance of a communications device onto the grounds of a detention facility. Under the bill, violating the new prohibition against conveying a communications device onto the grounds of a detention facility would be a misdemeanor of the first degree, which carries a maximum individual fine of \$1,000 and a possible jail stay of no more than 6 months. If the offender has been previously convicted of, or pleaded guilty to, a violation of the bill's illegal conveyance prohibition, the offense rises to a felony of the fifth degree, which carries a maximum individual fine of \$2,500 and a possible definite prison term of 6 to 12 months.

### **Criminal caseloads**

The impact of the bill's prohibitions on local criminal justice systems will likely be twofold. First, offenders who would have been prosecuted and sanctioned under current law could face a more serious penalty. Second, individuals who might not have been punished under current law could be arrested, prosecuted, convicted, and sanctioned. Thus, the bill's prohibitions would in all likelihood: (1) affect existing criminal cases, and (2) create new criminal cases.

That said, it appears that the number of criminal cases that could be affected or created by the bill's prohibitions will be relatively small for any given local criminal justice system. For example, based on conversations with DRC about the conduct prohibited under the bill, very few instances rise to the level of the expanded sexual battery offense, and, during shakedowns of its prison system, very few cell phones have actually been discovered.

### **State and local expenditures**

To the degree that the bill's prohibitions affect local criminal justice expenditures, it might be to increase the annual costs that a county or municipality incurs in prosecuting, adjudicating, defending (if the violators are indigent), and sanctioning offenders. If the criminal justice expenditures of these local governments do in fact increase, any such rise should be no more than minimal annually given the likelihood that the number of cases that could be affected by the bill's prohibitions in any given jurisdiction appears to be relatively small.

As a result of the bill, it is also possible that additional offenders will be sentenced to prison or sentenced to prison for longer stays than would have been the case under current law, the fiscal effect of which would be to increase DRC's GRF-funded annual incarceration and post-release control costs. The number of affected offenders, however, appears to be small enough that any increase in the Department's annual expenditures would be minimal at most.

### **State and local revenues**

As a result of violations of the bill's prohibitions, additional court cost and fine revenues may be generated for the state, counties, and municipalities. As it appears that the number of affected cases will be relatively small in any given local jurisdiction, the amount of court cost and fine revenues that actually may be collected annually by counties and municipalities is unlikely to exceed minimal. For the state, the amount of additional locally collected state court cost revenues that might be collected and deposited annually to the credit of the GRF and the Victims of Crime/Reparations Fund (Fund 402) is likely to be no more than negligible.

### **Firearm training**

#### **Adult Parole Authority**

Existing law requires an Adult Parole Authority (APA) employee with permission to carry a firearm in the discharge of their official duties successfully complete an Ohio Peace Officer Training Commission-approved basic firearm training program that is administered by DRC. The bill removes from the provision the requirement that the program be administered by DRC.

Currently APA employees must receive basic firearm training from DRC's Corrections Training Academy. Under the bill, if the APA hired an employee who had already successfully completed an Ohio Peace Officer Training Commission-approved basic firearm training program, then that employee would not be required to participate in DRC's basic firearm training program.

Based on a conversation with the APA, it appears that, by removing the requirement, the bill could save DRC time and moneys that might otherwise have to be expended to deliver basic firearm training to certain employees. The amount of any such savings annually, however, is likely to be relatively small given the likelihood that very few APA employees would in effect be exempted from DRC-administered basic firearm training.

#### **Court probation officers**

Existing law requires municipal court and common pleas court probation officers with permission to carry a firearm in the discharge of their official duties successfully complete an Ohio Peace Officer Training Commission-approved basic firearm training program within six months of receiving permission to carry a firearm. Under the bill, a municipal court or common pleas court probation officer must first successfully complete an Ohio Peace Officer Training Commission-approved basic firearm training program before being granted permission to carry a firearm.

It appears that the practical fiscal effect of amending the existing firearm training provision will be similar to the aforementioned provision related to firearm training for APA employees. Under the bill, a person hired as a probation officer that had already successfully completed an Ohio Peace Officer Training Commission-approved basic firearm training program would not be required to successfully complete such a training program again if the certificate of successful completion were still valid.

Thus, municipal court and common pleas court probation departments could save time and moneys that might otherwise have to be expended to ensure that certain employees successfully complete a basic firearm training program. The amount of any such savings annually, however, is likely to be relatively small given the likelihood that very few municipal court and common pleas court probation officers would in effect be exempted from Ohio Peace Officer Training Commission-approved basic firearm training.

*LSC fiscal staff: Joseph Rogers, Budget Analyst*

*HB0510EN/lb*



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## ***Detailed Fiscal Analysis***

### Appointments from among three highest scorers on police/fire promotional exams

According to the Ohio Township Association, civil service provisions of H.B. 515 applicable to limited home rule urban civil service townships would currently apply only to Boardman Township in Mahoning County. Under the bill, a township that is both civil service and urban may appoint *any* one of the *three highest* scorers on a police or fire department promotional exam to a position. Currently, only the highest scorer may be promoted.

### Township Journal and Meeting Minutes

Under the bill, the board of township trustees in a limited home rule township may designate, by a majority vote, any person to keep its journal and take the minutes at board meetings. Township costs could increase or decrease depending on what arrangements are made by the board of township trustees.

*LSC fiscal staff: Carol Robison, Budget Analyst*

*HB0515EN/lb*

# Fiscal Note & Local Impact Statement

## 124<sup>th</sup> General Assembly of Ohio

Ohio Legislative Service Commission  
77 South High Street, 9<sup>th</sup> Floor, Columbus, OH 43215-6136 ✦ Phone: (614) 466-3615  
✦ Internet Web Site: <http://www.lsc.state.oh.us/>

BILL: **Am. Sub. H.B. 530** DATE: **December 5, 2002**

STATUS: **As Enacted – Effective December 18, 2002** SPONSOR: **Rep. Peterson**  
(Sections 3 and 4 effective January 1, 2004)

LOCAL IMPACT STATEMENT REQUIRED: **No — Introduced version had no local cost; Current version creates annual costs for the counties of Brown and Morrow exceeding minimal**

CONTENTS: **Modifies the small county exception to the drawing, summoning, and service of jurors for a term or part of a term of a court of common pleas, allows the board of trustees of a fire district to issue bonds for the purpose of acquiring fire-fighting equipment, buildings, and sites, allows municipal court judges and county court judges to be paid in biweekly installments, confirms certain amendments of Sub. H.B. 8 of the 124th General Assembly relating to the creation of an additional term of the drug court judge of the Hamilton County Court of Common Pleas, creates the Brown County Municipal Court with one full-time judgeship in that court and abolishes the Brown County County Court, continues the authority of the mayor of Georgetown to conduct a mayor's court, creates the Morrow County Municipal Court with one full-time judgeship in that court and abolishes the Morrow County County Court, continues the authority of the mayor of Mount Gilead to conduct a mayor's court, and declares an emergency**

### State Fiscal Highlights

| STATE FUND                  | FY 2003*                          | FY 2004  | FUTURE YEARS  |
|-----------------------------|-----------------------------------|--|---|
| <b>General Revenue Fund</b> |                                   |  |   |
| Revenues                    | - 0 -                             | - 0 -  | - 0 -   |
| Expenditures                | Net increase of around<br>\$6,219 | Net increase of more than<br>\$12,438, depending on future<br>salary increases | Net increase of more than<br>\$12,438 annually, depending on<br>future salary increases |

Note: The state fiscal year is July 1 through June 30. For example, FY 2002 is July 1, 2001 – June 30, 2002.

\*This analysis assumes the bill will not affect the state until the approximate midpoint of FY 2003.

- **Brown County court changes.** The net fiscal impact for the state of replacing the Brown County County Court with the Brown County Municipal Court involves the difference in salary and other associated costs between two part-time county court judges, under current law, and the change to one full-time municipal court judge as proposed by the bill. In sum, the net difference in salary and other associated costs would produce an annual savings to the state's General Revenue Fund (GRF) of approximately \$6,885.
- **Morrow County court changes.** The net fiscal impact for the state of replacing the Morrow County County Court with the Morrow County Municipal Court involves the difference in salary and other associated costs



between one part-time county court judge, under current law, and the change to one full-time municipal court judge as proposed by the bill. In sum, the net difference in salary and other associated costs would produce an annual expenditure increase to the state’s GRF of approximately \$19,323.

### ***Local Fiscal Highlights***

| <b>LOCAL GOVERNMENT</b>                   | <b>FY 2003</b>  | <b>FY 2004</b>  | <b>FUTURE YEARS</b>  |
|---|---|---|--|
| <b>Counties</b>                           |   |   |  |
| Revenues                                  | - 0 -   | - 0 -   | - 0 -  |
| Expenditures                              | Potential decrease in jury-related expenditures, could be in the tens of thousands of dollars in certain counties   | Potential decrease in jury-related expenditures, could be in the tens of thousands of dollars in certain counties   | Potential decrease in jury-related expenditures, could be in the tens of thousands of dollars annually in certain counties   |
| <b>Brown County (court changes)</b>       |   |   |  |
| Revenues                                  | - 0 -   | - 0 -   | - 0 -  |
| Expenditures                              | Increase of around \$36,204   | Increase of \$36,204 or more, depending on future salary increases  | Increase of \$36,204 or more annually, depending on future salary increases  |
| <b>Morrow County (court changes)</b>      |   |   |  |
| Revenues                                  | - 0 -   | - 0 -   | - 0 -  |
| Expenditures                              | Increase of around \$27,535   | Increase of \$27,535 or more, depending on future salary increases  | Increase of \$27,535 or more annually, depending on future salary increases  |
| <b>Hamilton County (drug court judge)</b> |   |   |  |
| Revenues                                  | - 0 -   | - 0 -   | - 0 -  |
| Expenditures                              | Potential savings   | Potential savings   | Potential annual savings in FYs 2005 through 2008; Starting with FY 2009, potential annual increase  |
| <b>Township Fire Districts</b>            |   |   |  |
| Revenues                                  | Potential gain, up to amount of bonds issued  | Potential gain, up to amount of bonds issued  | Potential annual gain, up to amount of bonds issued  |
| Expenditures                              | Potential increase in debt service costs, magnitude largely determined by amount and duration of bonds, plus potential one-time minimal debt issuance costs | Potential increase in debt service costs, magnitude largely determined by amount and duration of bonds, plus potential one-time minimal debt issuance costs | Potential annual increase in debt service costs, magnitude largely determined by amount and duration of bonds, plus potential one-time minimal debt issuance costs |

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- **Juror drawing, summoning, and service.** The practical effect of modifying the existing statutory exemption to cover counties with less than 250,000 population would be to give 17 Ohio counties greater flexibility in the drawing of jurors, which will in turn create opportunities for those counties to potentially reduce, realign, or forestall increases in the annual operating budgets of their courts of common pleas. The magnitude of this potential fiscal effect on any one of the exempted 17 counties depends on: (1) the degree to which the courts of common pleas are strictly adhering to the statutorily-required procedure for the drawing, summoning, and service of jurors for a term or part of a term of a court of common pleas, and (2) the degree to which the courts of common pleas opt to use the flexibility that comes with the exemption from that statutorily-required procedure. Although it is somewhat difficult to precisely calculate the magnitude of the potential annual savings to any of these 17 counties at this time, it appears very likely that the amount of the annual savings in some of those counties could easily be in the tens of thousands of dollars.
- **Procedures for postponing, excusing, and delaying juror service.** The bill specifically authorizes each court of common pleas or a judge of the court of common pleas to postpone, excuse, or discharge prospective jurors. The local fiscal effects of this feature of the bill appear to be twofold. First, it likely codifies practice in some counties and thus would not create any direct fiscal effects. Second, in counties where this feature of the bill is not codifying current practice, it may produce a savings in the annual operating costs of that county's jury system, most specifically in terms of the amount of money that is allocated for juror pay. The size of any such annual savings would likely be relatively small.
- **Township fire districts.** Given the permissive nature of the bond issuance authority granted the board of township trustees of a fire district, it is difficult to predict when a particular board of township trustees might choose to issue bonds, or to estimate how much revenue might be generated and at what cost.
- **Biweekly pay for municipal court and county court judges.** As of this writing, it would appear that the exercise of this permissive authority by a given municipality or county will not noticeably increase, if at all, the local burden and related costs associated with paying municipal and county court judges.
- **Hamilton County drug court judge.** The bill confirms certain amendments of Sub. H.B. 8 of the 124th General Assembly relating to the creation of an additional six-year term for the drug court judge of the Hamilton County Court of Common Pleas. Presumably, the existence of the drug court judge in the Hamilton County Court of Common Pleas has allowed the county to more quickly and appropriately sanction certain drug offenders than would otherwise have been the case. If the authority for that judgeship were allowed to sunset, then those efficiencies would most likely be lost, at least for the time being until the local criminal justice system adjusted to a new way of handling drug cases. These amendments preserve those efficiencies for another six years, as the term of the drug court judge is extended from January 2003 to January 2009. The Legislative Service Commission fiscal staff, however, has no easy way of quantifying the annual savings that those efficiencies currently produce. The issue of losing current operational efficiencies is likely to arise again starting with FY 2009 unless the term of this drug court judgeship is extended again.
- **Brown County court changes.** Under the bill, Brown County will: (1) realize a \$15,046 annual savings in judicial salaries and benefits, and (2) incur an estimated annual increase of \$51,250 in compensation costs for a part-time magistrate. The net fiscal impact of these two expenditure effects on Brown County will be an estimated \$36,204 increase in annual spending. It appears that there will be no other collateral costs or operational expenses

associated with the creation of the Brown County Municipal Court, the establishment of a full-time judgeship in that court, and the abolishment of the Brown County County Court.

- **Morrow County court changes.** Under the bill, Morrow County will experience a net expenditure increase of around \$27,535 annually associated with judicial salaries and other benefits. It appears that there will be no other collateral costs or operational expenses associated with the creation of the Morrow County Municipal Court, the establishment of a full-time judgeship in that court, and the abolishment of the Morrow County County Court.
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## ***Detailed Fiscal Analysis***

For the purposes of this fiscal analysis, the bill most notably:

- (1) Modifies the provision that allows counties with less than 100,000 population to be exempt from the statutorily required procedure for the drawing, summoning, and service of jurors for a term or part of a term of a court of common pleas to apply to counties with less than 250,000 population.
- (2) Modifies various provisions of existing law regarding postponement, excuse, or discharge from jury service.
- (3) Allows the board of township trustees of a fire district to issue bonds for the purpose of acquiring fire-fighting equipment, buildings, and sites.
- (4) Allows municipal court judges and county court judges to be paid in biweekly installments.
- (5) Confirms certain amendments of Sub. H.B. 8 of the 124th General Assembly relating to the creation of an additional term of the drug court judge of the Hamilton County Court of Common Pleas.
- (6) Creates the Brown County Municipal Court on February 9, 2003, establishes one full-time judgeship in that court, simultaneously abolishes the Brown County County Court and its two part-time judgeships on that date, and continues the authority of the mayor of Georgetown to conduct a mayor's court.
- (7) Creates the Morrow County Municipal Court on January 1, 2003, establishes one full-time judgeship in that court, simultaneously abolishes the Morrow County County Court and its one part-time judgeship on that date, and continues the authority of the mayor of Mount Gilead to conduct a mayor's court.
- (8) Declares an emergency.

### **Juror drawing, summoning, and service**

Under current law, counties with less than 100,000 population are exempt from the statutorily required procedure for the drawing, summoning, and service of jurors for a term or part of a term of a court of common pleas. The bill modifies that exemption to cover counties with less than 250,000

population, the practical effect of which will be to give those counties greater flexibility in the drawing of jurors.

Based on the 2000 U.S Census, there are 17 Ohio counties with populations between 100,000 and 250,000. Those 17 counties are noted alphabetically, along with their 2000 census count, in Table 1 below. It is also important to note that, prior to the 2000 U.S. Census, all but Ashtabula and Delaware counties already had populations that were between 100,000 and 250,000. Prior to the 2000 U.S. Census, and based on the 1990 U.S. Census, Ashtabula and Delaware counties had populations that were less than 100,000.

**Table 1 – Counties with 2000 Census Count between 100,000 and 250,000**

| County     | Census Count | County   | Census Count |
|------------|--------------|----------|--------------|
| Allen      | 108,473      | Licking  | 145,491      |
| Ashtabula  | 102,728      | Medina   | 151,095      |
| Clark      | 144,742      | Portage  | 152,061      |
| Clermont   | 177,977      | Richland | 128,852      |
| Columbiana | 112,075      | Trumbull | 225,116      |
| Delaware   | 109,989      | Warren   | 158,383      |
| Fairfield  | 122,759      | Wayne    | 111,564      |
| Greene     | 147,886      | Wood     | 121,065      |
| Lake       | 227,511      |          |              |

The practical effect of modifying the existing statutory exemption to cover counties with less than 250,000 population would be to give those 17 counties greater flexibility in the drawing of jurors. This greater flexibility will in turn create opportunities for those counties to potentially reduce, realign, or forestall increases in the annual operating budgets of their courts of common pleas. One of the most noticeable fiscal effects might be in reducing: (1) the number of jurors that might otherwise be drawn and summoned for service, and (2) the number of days that jurors would otherwise have to serve. If a smaller number of jurors are drawn and summoned for service and the jurors that are present serve fewer days, then the court of common pleas would be spending less money for juror pay.

The magnitude of this potential fiscal effect on any one of the exempted 17 counties depends on: (1) the degree to which the courts of common pleas are strictly adhering to the statutorily-required procedure for the drawing, summoning, and service of jurors for a term or part of a term of a court of common pleas, and (2) the degree to which the courts of common pleas opt to use the flexibility that comes with the exemption from that statutorily-required procedure. Although it is somewhat difficult to precisely calculate the magnitude of the potential annual savings to any of these 17 counties at this time, it appears very likely that the amount of the savings in some of those counties could easily be in the tens of thousands of dollars.

**Procedures for postponing, excusing, and delaying juror service**

Under current law, a court of common pleas may postpone, excuse, or discharge prospective jurors from jury service under certain circumstances. The bill specifically authorizes a court of common pleas or a judge of the court of common pleas to postpone, excuse, or discharge prospective jurors. The local fiscal effects of this feature of the bill appear to be twofold. First, it likely codifies practice in some counties and thus would not create any direct fiscal effects. Second, in counties where this feature

of the bill is not codifying current practice, it may produce a savings in the annual operating costs of that county's jury system, most specifically in terms of the amount of money that is allocated for juror pay. The size of any such annual savings would likely be relatively small.

### **Township fire districts**

**Current law.** Under section 505.37 of the Revised Code, a board of township trustees may create a fire district. The board is permitted to purchase or otherwise provide any fire apparatus, appliances, materials, fire hydrants, and water supply for fire-fighting purposes. However, pursuant to section 505.40 of the Revised Code, the authority of a board of township trustees to issue bonds for fire protection measures is limited by two conditions: (1) a vote of the people in a township or fire district in the manner provided by section 133.18 of the Revised Code, and (2) in no event can the amount of the bond exceed the greater of one hundred fifty thousand dollars or two per cent of the total value of all property in the township as listed and assessed for taxation.

**Bond issuance authority.** The bill adds a new section of law allowing the board of township trustees of a fire district to issue bonds for the purpose of acquiring fire-fighting equipment, buildings, and sites, or for the purpose of constructing or improving buildings to house fire-fighting equipment. This provision would appear to supercede the bond issuance limitations stipulated under current law.

**Township fiscal effects.** At this time, there appears to be no limit on the amount of bonds that may be issued by a given board of township trustees of a fire district. No obligations incurred under section 505.37 of the Revised Code will be included when calculating the net indebtedness of any township.

The board of township trustees of a fire district, as the issuer, would presumably be obligated to pay the principal and interest on the bonds issued. Additional costs, some of which would be one-time in nature, are likely also to be incurred for such things as debt issuance, bond counsel, insurance, and financial advisors. As of this writing, it is unclear to LSC fiscal staff as to how a board of township trustees would cover these bond-related expenditures. In other words, what local revenue stream or streams would be used to pay for these costs is uncertain.

Given the permissive nature of this authority, it is difficult to predict when a particular board of township trustees might choose to issue bonds, or to estimate how much revenue might be generated and at what cost.

**State fiscal effects.** The permissive authority granted a board of township trustees of a fire district would not appear to create any direct or immediate fiscal effects on the state's revenue and expenditures, nor should it have any direct or immediate effect on the state's bond rating.

### **Biweekly pay for municipal court and county court judges**

Under current law, municipal and county court judges are paid in semimonthly installments. The bill permits municipal and county court judges to be paid in *either biweekly installments or semimonthly installments, as determined by the payroll administrator*. As of this writing, it would

appear that the exercise of this permissive authority by a given municipality or county will not noticeably increase, if at all, the local burden and related costs associated with paying municipal and county court judges.

### **Hamilton County drug court judge**

The bill confirms certain amendments of Sub. H.B. 8 of the 124th General Assembly relating to the creation of an additional six-year term for the drug court judge of the Hamilton County Court of Common Pleas. The term of the existing drug court judge began January 3, 1997, and is set to be replaced by a successor general division judge whose term begins on January 3, 2003. The amendments in Sub. H.B. 8 allow the drug court judgeship to continue through January 2, 2009, whereupon a successor general division judge with a term that begins January 3, 2009 would replace it.

The drug court currently costs Hamilton County in excess of \$700,000 annually to operate, which includes the payroll expenses of 18 county personnel (the judge, a director, an administrator, a bailiff, a clerk, a court reporter, a prosecutor, three public defenders, and eight probation officers). In addition, around 300 cases are transferred annually to the drug court from the Hamilton County Municipal Court, which is a county-operated municipal court whose costs of operation are the general responsibility of Hamilton County.

If the authority that allows the drug court to exist were allowed to sunset, these annual operating costs would not simply disappear; nor would its drug caseload simply disappear. These drug cases would be redistributed among all of the judges of the general division of the county's court of common pleas, including the former drug court judgeship that would become a member of the general division. Also, some number of drug cases would remain under the jurisdiction of the Hamilton County Municipal Court, as they would no longer be eligible for transfer to the drug court. Excluding the judgeship, the remaining 17 county personnel that have been assembled around the existing drug court would probably not be just let go, they would most likely be reallocated around the criminal justice components of Hamilton County's common pleas and municipal court systems to reflect the caseload effects of redistributing drug cases.

Even if the amendments do not create a direct fiscal effect on Hamilton County, for example, by cutting annual operating costs associated with the drug court, it could still be argued that there is at least one likely indirect fiscal effect. Presumably, the existence of the drug court has allowed the county to more quickly and appropriately sanction certain drug offenders than would otherwise have been the case. If the authority for the drug court were allowed to sunset, then those efficiencies would most likely be lost, at least for the time being until the local criminal justice system adjusted to a new way of handling drug cases. The amendments would preserve those efficiencies for another six years, as the life of the drug court judgeship is extended from January 2003 to January 2009. The Legislative Service Commission fiscal staff, however, has no easy way of quantifying the annual savings that those efficiencies currently produce. The issue of losing current operational efficiencies would presumably arise again starting with FY 2009 unless the term of this drug court judgeship is extended again.

### **Brown County court changes**

**Two part-time county court judges.** As of January 1, 2003, the annual salary for a part-time county court judge will be \$58,150. This annual salary will consist of a base fixed amount of \$35,500 paid by the county. The balance, or \$22,650, will be paid by the state. Thus, in Brown County, the county will be responsible for paying the local share of the salaries of two existing part-time county court judges, which will be \$71,000 (plus \$5,500 in supplemental annual compensation described in the paragraph immediately below). Pursuant to Sub. H.B. 712 of the 123rd General Assembly, those judicial salaries are scheduled to rise again in calendar year 2004. The state share of the judicial salary will then increase annually, through calendar year 2008, according to the smaller of the Consumer Price Index or 3 percent, as established in Sub. H.B. 712.

Section 1907.17 of the Revised Code stipulates that county commissioners may provide a supplemental fixed annual amount to each part-time county court judge, not to exceed \$2,000. This extra amount has no impact upon the statutorily prescribed amounts paid for by the county or the state. According to the Brown County Commissioner’s budget office, the county pays each part-time county court judge an additional \$2,000 annually, which will bring the county portion of each judge’s salary to \$37,500. Under current law, the board of county commissioners is also required to pay the presiding or administrative judge an extra \$1,500 annually.

Thus, as of January 1, 2003, under current law, Brown County is scheduled to be paying a total of \$76,500 annually to compensate its two existing part-time county court judges.

**One full-time municipal court judge.** As of January 1, 2003, a full-time municipal court judge is scheduled to receive \$101,100 in annual salary compensation. The local funding authority will be required to pay a base fixed amount of \$61,750 for each full-time municipal court judge. The state will pay the remainder, or \$39,350. As under the current court structure, the presiding or administrative judge in the proposed Brown County Municipal Court will receive an additional \$1,500 in salary from Brown County. Unlike a part-time county court judge, a full-time municipal court judge does not qualify for the \$2,000 in supplemental annual compensation, as have the two existing part-time county court judges. Thus, the total annual salary cost to Brown County for this new full-time municipal court judge will be \$63,250. This means that the creation of the Brown County Municipal Court and the abolition of the Brown County County Court will actually result in a savings to Brown County of about \$13,250 in annual judicial salary compensation, which is detailed in Table 2 below.

**Table 2 – Brown County**

| <b>Salary Compensation Breakdown as of January 1, 2003</b> | <b>2 Part-time County Court Judges</b> | <b>1 Full-time Municipal Court Judge</b> | <b>Compensation Difference</b> |
|--|--|--|--------------------------------|
| State portion  | \$ 45,300                              | \$ 39,350                                | -\$ 5,950                      |
| County portion*  | \$ 76,500                              | \$ 63,250                                | -\$13,250                      |
| Total Salary   | \$121,800                              | \$102,600                                | -\$19,200                      |

\*Includes any local supplemental salary compensation.

**PERS.** An additional component of the costs borne by both the state and county involve retirement benefits and whether the county or state pays for these benefits. State and local elected officials are exempt from membership in the state’s Public Employees Retirement System (PERS), but can choose to become members. Most do. Therefore, this analysis includes PERS payments, which assumes that the person who fills the full-time municipal court judgeship will join PERS.

The state pays 13.31 percent of its supplemental amount into PERS and the county pays 13.55 percent of its annual salary compensation amount into PERS. Thus, the total annual PERS cost to the State of Ohio, as a result of the bill, will go from \$6,030 to \$5,238, an annual savings of \$792.

As for Brown County, the annual 13.55 percent PERS contribution based on the \$63,250 county portion of the full-time municipal court judge's total salary compensation equals about \$8,570. In the existing Brown County County Court, Brown County pays a total of \$76,500 in annual compensation to two part-time county court judges, the result being that the 13.55 percent paid into PERS totals \$10,366 annually. Accordingly, the creation of the Brown County Municipal Court and the abolition of the Brown County County Court will decrease Brown County's annual PERS payments by about \$1,796.

In addition to PERS, the state also makes contributions for other purposes: 1.45 percent of gross salary for Medicare for all employees hired after April 1986, 0.67 percent for workers' compensation, and 0.28 percent for the administration of the state's Central Accounting System (CAS). These contributions, in total, comprise about 2.4 percent of the state's portion of the judicial salary. The combined state contribution, under current law, for the two part-time county court judges is \$1,087. The state contribution for the full-time municipal court judge will cost the state \$944 annually, thereby yielding an estimated annual savings of \$143 for the state.

**Additional Brown County costs.** Based on a conversation with Brown County officials, as a result of the bill, the county also intends to hire one part-time magistrate at approximately \$41,000 a year plus benefits, which could total as much as 25 percent of the base salary, or \$10,250. The county will be solely responsible for absorbing this additional \$51,250 annual cost. Apparently, the part-time magistrate will be needed to keep up with the court's expected caseload.

It appears that there will be no other collateral costs or operational expenses associated with the creation of the Brown County Municipal Court, the establishment of a full-time judgeship in that court, and the abolishment of the Brown County County Court. The subject matter and territorial jurisdiction of the new Brown County Municipal Court will be identical to that of the existing Brown County County Court, which it replaces.

**Net fiscal impact on Brown County.** Thus, under the bill, Brown County will: (1) realize a \$15,046 annual savings in judicial salaries and benefits, and (2) incur an estimated annual increase of \$51,250 in compensation costs for a part-time magistrate. The net fiscal impact of these two expenditure effects on Brown County will be an estimated \$36,204 increase in annual spending.

**Net state fiscal impact.** The net fiscal impact for the state involves the difference in salary and other associated costs between two part-time county court judges, under current law, and the change to one full-time municipal court judge as proposed by the bill. In sum, the net difference in salary and other associated costs would produce an annual savings to the state's GRF of approximately \$6,885.

**Georgetown Mayor's Court.** The bill continues the authority of the mayor of Georgetown to conduct a mayor's court. As the geographic and subject matter jurisdiction of that court remain unchanged, its revenues and expenditures appear to be unaffected by the bill.

**Morrow County court changes**

**One part-time county court judge.** As of January 1, 2003, the annual salary for a part-time county court judge will be \$58,150. This annual salary will consist of a base fixed amount of \$35,500 paid by the county. The balance, or \$22,650, will be paid by the state. Thus, in Morrow County, the county will be responsible for paying the local share of one part-time county court judge, which will be \$35,500 (plus \$3,500 in supplemental annual compensation described in the paragraph immediately below). Pursuant to Sub. H.B. 712 of the 123rd General Assembly, those judicial salaries are scheduled to rise again in calendar year 2004. The state share of the judicial salary will then increase annually, through calendar year 2008, according to the smaller of the Consumer Price Index or 3 percent, as established in Sub. H.B. 712.

Section 1907.17 of the Revised Code stipulates that county commissioners may provide a supplemental fixed annual amount to each part-time county court judge, not to exceed \$2,000. This extra amount has no impact upon the statutorily prescribed amounts paid for by the county or the state. Accordingly, Morrow County pays the part-time county court judge an additional \$2,000 annually, which will bring the county portion of the judge's salary to \$37,500. Under current law, the board of county commissioners is also required to pay the presiding or administrative judge an extra \$1,500 annually.

Thus, as of January 1, 2003, Morrow County is scheduled to be paying a total of \$39,000 annually in compensation to its existing part-time county court judge.

**One full-time municipal court judge.** As of January 1, 2003, a full-time municipal court judge is scheduled to receive \$101,100 in annual salary compensation. The local funding authority will be required to pay a base fixed amount of \$61,750 for each full-time municipal court judge. The state will pay the remainder, or \$39,350. As under the current court structure, the presiding or administrative judge in the proposed Morrow County Municipal Court will receive an additional \$1,500 in salary from Morrow County. Unlike a part-time county court judge, a full-time municipal court judge does not qualify for the \$2,000 in supplemental annual compensation, as has the existing part-time county court judge. Thus, the total annual salary cost to Morrow County for this new full-time municipal court judge will be \$63,250. This means that the creation of the Morrow County Municipal Court and the abolition of the Morrow County County Court will result in additional costs to Morrow County of about \$24,250 in annual judicial salary compensation, which is detailed in Table 3 below.

**Table 3 – Morrow County**

| <b>Salary Compensation Breakdown<br/>as of January 1, 2003</b> | <b>1 Part-time<br/>County Court<br/>Judge</b> | <b>1 Full-time<br/>Municipal Court<br/>Judge</b> | <b>Compensation<br/>Difference</b> |
|--|---|--|------------------------------------|
| State  | \$22,650                                      | \$ 39,350  | +\$16,700                          |
| County*  | \$39,000                                      | \$ 63,250  | +\$24,250                          |
| <b>Total Salary</b>  | <b>\$61,650</b>                               | <b>\$102,600</b>                                 | <b>+\$40,950</b>                   |

\*Includes any local supplemental salary compensation.

**PERS.** State and local elected officials are exempt from membership in PERS (Public Employees Retirement System), unless they choose to become members. Most do. Therefore, this analysis includes PERS payments, which assumes that the person who fills the full-time municipal court judgeship will join PERS.

The state will contribute to the new full-time municipal court judge's benefits at the rate of 13.31 percent of its supplemental salary amount, while the county pays 13.55 percent on its annual salary compensation amount. Under that PERS contribution formula, and as a result of the bill, Morrow County will pay an annual increase of \$3,285 over the current \$5,285 paid annually by the county. The state will pay an annual increase of \$2,223 over the \$3,015 paid annually under current law.

In addition to PERS, the state also makes contributions for other purposes: 1.45 percent of gross salary for Medicare for all employees hired after April 1986, 0.67 percent for workers' compensation, and 0.28 percent for the administration of the state's Central Accounting System (CAS). These contributions, in total, comprise about 2.4 percent of the state's portion of the judicial salary. The state contribution, under current law, for the part-time Morrow County judge is \$544 annually. The state contribution for the full-time Morrow County municipal judge will cost the state \$944 annually, thereby yielding an increased annual expenditure of around \$400.

**Additional Morrow County costs.** Based on a conversation with the part-time judge currently serving on the Morrow County County Court, it appears that there will be no other collateral costs or operational expenses associated with the creation of the Morrow County Municipal Court, the establishment of a full-time judgeship in that court, and the abolishment of the Morrow County County Court. The subject matter and territorial jurisdiction of the new Morrow County Municipal Court will be identical to that of the existing Morrow County County Court, which it replaces. There appear to be no plans to increase the number of clerks or bailiffs, and no capital improvements will need to be undertaken.

**Net fiscal impact on Morrow County.** Thus, under the bill, Morrow County will experience a net expenditure increase of around \$27,535 annually associated with judicial salaries and other benefits.

**Net state fiscal impact.** The net fiscal impact for the state involves the difference in salary and other associated costs between one part-time county court judge, under current law, and the change to one full-time municipal court judge as proposed by the bill. In sum, the net difference in salary and other associated costs would produce an annual expenditure increase to the state's GRF of approximately \$19,323.

**Mount Gilead Mayor's Court.** The bill continues the authority of the mayor of Mount Gilead to conduct a mayor's court. As the geographic and subject matter jurisdiction of that court remain unchanged, its revenues and expenditures appear to be unaffected by the bill.

*LSC fiscal staff: Holly Wilson, Budget Analyst  
Jamie Slotten, Budget Analyst  
Joe Rogers, Budget Analyst*

*HB0530EN/lb*



|   |       |                            |                            |
|---|-------|----------------------------|----------------------------|
| Revenues  | - 0 - | Potential minimal gain     | Potential minimal gain     |
| Expenditures  | - 0 - | Potential minimal increase | Potential minimal increase |
| <b>Services for Rehabilitation Fund (Fund 4L1)</b>                  |       |                            |                            |
| Revenues  | - 0 - | Potential minimal gain     | Potential minimal gain     |
| Expenditures  | - 0 - | Potential minimal increase | Potential minimal increase |
| <b>Drug Abuse Resistance Education Programs Fund (Fund 4L6)</b>     |       |                            |                            |
| Revenues  | - 0 - | Potential minimal gain     | Potential minimal gain     |
| Expenditures  | - 0 - | Potential minimal increase | Potential minimal increase |
| <b>Trauma and Emergency Medical Services Grants Fund (Fund 83P)</b> |       |                            |                            |
| Revenues  | - 0 - | Potential minimal gain     | Potential minimal gain     |
| Expenditures  | - 0 - | Potential minimal increase | Potential minimal increase |

Note: The state fiscal year is July 1 through June 30. For example, FY 2003 is July 1, 2002 – June 30, 2003.

- This fiscal note assumes a January 1, 2004 effective date.

EXPENDITURES:

**Bureau of Motor Vehicles (BMV):**

- The payment plan option will also impose additional administrative duties for the BMV and thus will **lead to an increase in its annual operating costs**. The size of that increase in annual BMV operating expenditures is difficult to estimate because the number of offenders that must utilize a payment plan is unknown.
- The Ohio Sentencing Commission estimates there will be a reduction in the number of speeding related court cases, therefore a **cost reduction may occur**.
- Related to the forfeiture of an individual’s driver or commercial driver license, the courts assess and collect a \$15 processing fee which is remitted to the BMV to help defray the costs associated with terminating a forfeiture. It is estimated that 45,000 additional transactions (representing a 33% workload increase) will require work by BMV staff requiring one additional staff person at an **annual cost of \$40,000**.

**Ohio State Highway Patrol:**

- Potential additional **one-time costs ranging from \$183,500-\$448,000** (50% in FY 2003 and 50% in FY 2004) are estimated associated with an assumption that training of law enforcement personnel would be required once SB 123 is enacted due to the broad scope of the changes in Ohio’s traffic laws. The range accounts for a decentralized training option versus a centralized training option.
- **Office of the Attorney General:** If moneys are appropriated or if there are any other funds available, the Attorney General (in conjunction with the Department of Public Safety and the Ohio Criminal Sentencing Commission) is required to develop, print and distribute training materials for the Ohio Department of Public Safety, law enforcement, and other appropriate persons for the implementation of this act. Potential **one-time costs of \$211,000** are estimated and may occur completely or partially in FY 2003 or any future fiscal year.

Apparently the Attorney General would be responsible for determining whether “there are any funds available.” However, it is not specified at what point in time this would be determined. If no funds are determined to be available and if no funds are appropriated, LSC assumes that each law enforcement agency requiring training materials will fund them individually. Since prices could vary, total training material costs could be greater or less than the \$211,000 originally estimated when it was assumed the Attorney General would provide them.

REVENUES:

- **The Bureau of Motor Vehicles (BMV), Indigent Drivers Alcohol Treatment Fund, Victims of Crime/Reparations Fund, Statewide Treatment and Intervention Fund, Services for Rehabilitation Fund, Drug Abuse Resistance Education Program (DARE) Fund, Trauma and Emergency Services Grants Fund:**

Reinstatement Fees:

- Revenues are distributed through the BMV to seven different state funds that will be affected by the new payment plan provision (see Table A). There may be a potential revenue increase **associated with implementing payment plans for reinstatement fees as more individuals may pay these fees if funding them becomes more affordable by being due in increments.** BMV has estimated that around 25 % (roughly 85,000) of those with license suspensions do not pay the reinstatement fee. At this time, however, it is very difficult to predict how many additional offenders will pay their reinstatement fee because of the payment plan option.

***Local Fiscal Highlights***

| LOCAL GOVERNMENT  | FY 2002 | FY 2003   | FUTURE YEARS       |
|---|---------|---|--------------------|
| <b>Counties - Training Costs</b>                        |         |   |                    |
| Revenues  | - 0 -   | - 0 -   | - 0 -              |
| Expenditures  | - 0 -   | Potential increase of \$432,600<br>- \$919,300 or more        | - 0 -              |
| <b>Counties and Municipalities - Court Expenditures</b> |         |   |                    |
| Revenues  | - 0 -   | Potential gain  | Potential gain     |
| Expenditures  | - 0 -   | Potential increase  | Potential increase |
| <b>Municipalities and Townships - Training Costs</b>    |         |   |                    |
| Revenues  | - 0 -   | - 0 -   | - 0 -              |
| Expenditures  | - 0 -   | Potential increase of<br>\$2,265,100 - \$2,962,100 or<br>more | - 0 -              |

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- This fiscal note assumes a January 1, 2004 effective date, however, it is assumed training will occur during FY 2003 for local governments.

## EXPENDITURES:

- Training: Total additional **one-time costs of \$432,600 - \$919,300** for counties and **\$2,265,100 - \$2,962,100** for other local governments are estimated associated with an assumption that training of law enforcement personnel would be required once S.B. 123 is enacted due to the broad scope of the changes in Ohio's traffic laws.
- Training Materials: If moneys are appropriated or if there are any other funds available, the Attorney General (in conjunction with the Department of Public Safety and the Ohio Criminal Sentencing Commission) is required to develop, print and distribute training materials for the Ohio Department of Public Safety, law enforcement, and other appropriate persons for the implementation of this act. Apparently the Attorney General would be responsible for determining whether "there are any funds available." However, it is not specified at what point in time this would be determined. **If no funds are determined to be available and if no funds are appropriated, LSC assumes that each law enforcement agency requiring training materials will fund them individually.** Since prices could vary, total training material costs could be greater or less than the \$211,000 originally estimated when it was assumed the Attorney General would provide them.
- Criminal Justice Systems: Local criminal justice systems operated by counties and municipalities may experience an increase in annual expenditures related to the criminal prosecution and sanctioning of those who violate the bill's wrongful entrustment provision. In addition to any fines and local court costs, those convicted must pay state court costs. For a misdemeanor conviction, this cost is \$20 (\$9 to the Victims of Crime Fund and \$11 to the GRF).

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## ***Detailed Fiscal Analysis***

Senate Bill 123 creates many changes associated with Ohio's current traffic laws. The following analysis summarizes some of the more significant areas of the proposed legislation and was developed with information from staff representing: the Department of Public Safety, the Department of Natural Resources, the Department of Health, the Department of Transportation, the Ohio Judicial Conference, the Ohio Municipal League, the County Commissioner Association of Ohio, the Ohio Criminal Sentencing Commission, the Ohio Municipal and County Court Judges Association, and the Juvenile Judges Association. The following specific areas are addressed:

1. **Driver License Suspensions**
2. **Speeding**
3. **Operating a Vehicle Under the Influence**
4. **Vehicle Impoundment, Immobilization, and Forfeiture Procedures**
5. **Wrongful Entrustment**
6. **Financial Responsibility**
7. **Other Traffic Proposals**
8. **Federal Funding Sanction Issues**
9. **Training**

## General Assumptions:

1. In general, the bill would be effective January 1, 2004.
2. The renaming of the “operating a motor vehicle under the influence” (OMVI) provisions to “operating a vehicle under the influence” (OVI) will not require that all forms, suspension notices and literature have to be rewritten and reprinted to accommodate this change. If it does, additional costs would result.

## (I) Driver License Suspensions

- **Bureau of Motor Vehicles (BMV):** Minimal cost increases are estimated. The BMV anticipates doubling their current caseload associated with the changes proposed related to the new “limited” driving privileges (see #1 on page 5) from approximately 5,100 cases to 10,200 cases however, does not anticipate costs that will require additional resources as a result. The bureau estimates minimal costs from necessary form changes and data processing system changes.
- **Court System:** Costs and savings are estimated to offset each other. A minimal reduction in cases may occur due to various provisions anticipated to reduce the number of cases associated with individuals driving after their licenses have been suspended. However, there may also be an increase in workload associated with shifting the suspension procedure from the BMV to the courts. Under S.B. 123, BMV could not grant driving privileges for administrative suspensions; only the courts or statutes could allow this.

## Notable Provisions Factored into the Cost Estimate Analysis:

1. Limited driving privileges would allow for the expansion of existing occupational driving privileges for other purposes during suspensions. These purposes would include: occupational, educational, vocational, and medical reasons, taking a driver license exam, attending court-ordered treatment or other court ordered purposes. The court is responsible for designating the times, places and purposes of the privileges.
2. Restructuring Suspensions: S.B. 123 specifies suspension durations for various offenses that currently have indefinite suspension periods, including: delinquent and unruly children; carrying a gun to school; failure to appear after using a driver’s license as bond; and as a condition of adult probation. S.B. 123 also changes the suspension period by increasing the suspension for various motor vehicle violations, including: reckless operation; creating substantial risk to children; consuming liquor in a car or obtaining liquor under age; a second offense of misrepresenting one’s age to obtain liquor; and a juvenile drug abuse offense or disorderly conduct while voluntarily intoxicated. S.B. 123 streamlines suspension related terms by removing “forfeit” and “revoke” and clearly defining “suspend” and “cancel.”

The specification of suspension durations and changing the suspension period under S.B. 123 will have minimal impact to the state and local governments. The courts may experience minimal administrative costs associated with the assessment of points for a particular offense and costs for forwarding to the Registrar the suspended license or permit together with notice of the action of the

court. The BMV may also experience minimal administrative costs from the Registrar sending a written notice to an individual reporting the specific violation and the number of points charged.

S.B. 123 provides the following suspension lengths organized by class, imposed by courts, and the BMV (*the Appendix for the Legislative Service Commission’s Bill Analysis for S.B. 123 provides a detailed description of the basis of suspension and a comparison of the length of suspension under current law versus S.B. 123*).

|   |   |
|---|---|
| <u>Suspension class imposed by the court:</u> | <u>Suspension class imposed by the BMV:</u> |
| Class 1 – lifetime                            | Class A – 3 years                           |
| Class 2 – three years to life                 | Class B – 2 years                           |
| Class 3 – two to ten years                    | Class C – 1 year                            |
| Class 4 – one to five years                   | Class D – 6 months                          |
| Class 5 – six months to three years           | Class E – 3 months                          |
| Class 6 – three months to two years           | Class F – until conditions are met          |
| Class 7 – not to exceed one year              |   |

3. Costs may decrease and fine revenues may increase. Driving Under Suspension (DUS) offenses would continue to be misdemeanors of the 1<sup>st</sup> degree, but for someone who fails to reinstate once a suspension period is over, this would result in a misdemeanor of the 3<sup>rd</sup> degree. Driving without a valid license would remain a minor misdemeanor if the license was expired less than six months, however, would be a misdemeanor of the 4<sup>th</sup> degree if expired more than six months. It appears that these provisions may reduce costs associated with court appearance requirements for law enforcement and the courts. In addition, revenues may potentially increase due to the decreased penalties and associated decreased fines resulting in more offenders being able to pay.

*Table 1: Current Law Misdemeanor Penalties*

| Category:                                 | Maximum Sentence: | Maximum Fine: | Court Appearance |
|---|-------------------|---------------|------------------|
| Misdemeanor of the 1 <sup>st</sup> Degree | 6 months          | \$1,000       | Yes              |
| Misdemeanor of the 2 <sup>nd</sup> Degree | 90 days           | \$750         | Yes              |
| Misdemeanor of the 3 <sup>rd</sup> Degree | 60 days           | \$500         | Yes              |
| Misdemeanor of the 4 <sup>th</sup> Degree | 30 days           | \$250         | Yes              |
| Minor Misdemeanor                         | None              | \$100         | No               |

4. Current law prohibits a mayor’s court from hearing a second offense of driving while under suspension if the accused has been found guilty of the offense within the last *five* years. Current law also prohibits a mayor from hearing a charge of driving while under the influence of alcohol if the accused has been found guilty of the offense within the last *six* years. The bill harmonizes these two provisions to state that a mayor of a municipal court does not have jurisdiction to hear either driving while under the influence or driving under suspension cases if the accused has been previously convicted

of either offense within the last *six* years. By expanding the driving while under suspension provision another year; mayor's courts will have a decrease in such cases that might have otherwise occurred in that year. Also, mayor's courts will experience some small revenue loss from the decrease in such cases being heard. The bill would require these cases to be heard in the municipal court of the appropriate county. This would generate some small increase in expenditures to municipal courts, which would most likely be offset by a revenue gain from fines and court costs. Given these parameters, it is very difficult to estimate with any precision how many cases this might affect, therefore determining the exact cost is prohibitive. Nevertheless, based on the number of mayor's courts around the state, it appears that this change is unlikely to produce any more than a minimal burden to any one county or political subdivision.

5. Current law allows a remedial driving course to be used only one time to create a two-point credit against a driver record. Under the bill, a remedial course could be taken a maximum of five times during an individual's lifetime. In addition, during any three-year period the registrar shall approve only one two-point credit on a driving record. This may reduce the number of driving related suspensions and the fiscal effects may reduce related costs and revenues for the Department of Public Safety.

## **(II) Speeding**

- **Bureau of Motor Vehicles (BMV):** Minimal cost increases are estimated. Currently, the Bureau of Motor Vehicles is required to automatically suspend an individual's driver license for six months once 12 points have been accumulated within a two-year period. Approximately 23,000-28,000 cases are established by the BMV per year. There may be a possible increase in the number of licenses suspended due to point accumulation that will increase workload and costs to the BMV. On the other hand, the Ohio Sentencing Commission estimates that there will be a reduction in the number of 12-point suspension cases, therefore, savings may occur.
- **Ohio State Highway Patrol (OSHP):** Minimal cost savings are estimated. S.B. 123 simplifies the current process by reducing the penalties associated with second speeding offenses from a misdemeanor of the 4<sup>th</sup> degree (requiring a court appearance) to a minor misdemeanor (not requiring a court appearance). As a result, sworn officers should spend less time in court associated with some types of violations.
- **Local Law Enforcement:** Minimal costs savings are estimated due to less court overtime.

**Courts:** It is estimated by the Ohio Sentencing Commission that there will be a reduction in court operating costs for second time offenders. It is assumed there will be a net reduction in 12-point suspensions however, individuals who speed at a lower speed will accumulate points more slowly while individuals who speed at higher speeds will accumulate points more quickly.

### Notable Provisions Factored into the Cost Estimate Analysis:

1. Points would be assessed based upon the speed over the limit an individual traveled rather than also factoring in the number of convictions. Therefore, a standard and consistent penalty would result from a specific speeding action.

2. Costs and fine revenues may decrease. Under S.B. 123, a second speeding offense within one year would be a minor misdemeanor (no jail time, a maximum \$100 fine, no court appearance required) rather than a misdemeanor of the 4th degree (30 days maximum jail time, a maximum \$250 fine, and a required court appearance). As a result, cases may generate savings for law enforcement and the courts because fewer individuals who commit this violation will be required to make a court appearance and will not be sentenced to jail. Revenue impacts were not determinate at this time, however, individuals currently charged with this violation may pay a fine up to \$250 and under S.B. 123 they may pay a fine up to \$100 so, it is possible fine revenues will decrease. However, an alternative perspective is that revenues may increase due to lowering the fine levels thereby increasing an offender’s ability to pay.

**(III) Operating a Vehicle Under the Influence (OVI) Provisions**

Notable Provisions Factored into the Cost Estimate Analysis:

1. A new offense is created (referred to as “having physical control of a vehicle while under the influence”) related to being intoxicated behind wheel while possessing the ignition key or an ignition device.

This provision would result in changing the plea bargain individuals currently make for this activity from a misdemeanor of the 4<sup>th</sup> degree for “reckless operation” to a misdemeanor of the 1<sup>st</sup> degree for “having physical control.” As a result, the Ohio Sentencing Commission estimates fewer driver license suspensions may occur since driver license suspensions are not mandatory with this new offense however, more jail days may be assessed as the maximum sentence will have increased from 30 days to six months. The reduction in suspensions may reduce reinstatement fee revenues. Alternatively, the maximum fine will have increased from \$250 to \$1,000. It is unknown whether the net revenue impact will increase or decrease. It has been suggested that this charge may be used as a plea bargaining option if a Driving Under the Influence charge is more difficult to prove. The Ohio Sentencing Commission estimates the fiscal impacts of this change would be minimal.

*Table 2: Current Law for some Misdemeanor Penalties*

| Category:                                 | Maximum Sentence: | Maximum Fine: | Court Appearance |
|---|-------------------|---------------|------------------|
| Misdemeanor of the 1 <sup>st</sup> Degree | 6 months          | \$1,000       | Yes              |
| Misdemeanor of the 4 <sup>th</sup> Degree | 30 days           | \$250         | Yes              |

2. The bill permits a court, in a case where an offender must pay reinstatement fees following a license suspension, to establish a payment plan using either of the following methods: (1) a payment plan of not less than \$50 per month until all reinstatement fees are paid in full to the BMV, or (2) a payment extension of no more than 180 days. The plan would apply only to offenders who otherwise would be entitled to drive, if not for the reinstatement fees.

The intent of the proposed change is to decrease the number of persons who are arrested for Driving Under Suspension (DUS), which will decrease local criminal justice system costs associated with prosecuting and sanctioning the DUS offenders under current law. The payment plan provision, if enacted, will also result in a gain in the total amount of annual reinstatement revenue collected by the BMV, as presumably more offenders would pay the fee.

The driver's license reinstatement fee revenue is distributed in varying proportions among seven specific state funds as outlined in Table A: State Fiscal Effects by Fund. It is important to note that this fiscal note assumes that the bill will not result in an increase in the number of OVI convictions, therefore, it will not increase the amount of driver's license reinstatement fee revenue owed to the BMV. That said, however, the current system does not allow for partial payments, thus the change will produce an increase in annual expenditures for the BMV related to establishing a system of tracking each affected offender's payment plan and the need for additional staff at some BMV locations to handle the new payment plan.

Reinstatement fees range from \$30 to \$425. In calendar year 2000, 54,835 license suspensions were drinking and driving suspensions, which require a \$425 reinstatement fee. Another 86,223 suspensions were violations of driving without a license, 32,681 were violations of driving under suspension, and 19,986 involved financial responsibility suspensions. The BMV has estimated that around 25 % (roughly 85,000) of those with license suspensions do not pay the reinstatement fee. At this time, however, it is very difficult to predict how many additional offenders will pay their reinstatement fee because of the payment plan option.

Because it is a court's discretion that determines whether or not an offender will be on a payment plan, LSC fiscal staff cannot estimate the resulting workload increase and the number of additional staff BMV will need. Currently, a staff of approximately four cashiers process mailed in reinstatement fees and three employees called balancers, audit cashier terminals. The starting salary and benefits for a cashier is around \$34,441, while that of a balancer is around \$37,356 annually. LSC fiscal staff assume that the payment plan will produce the need for additional cashiers and balancers, however, because a court must make the determination of whether an offender should be assigned to a payment plan, and because it is difficult to determine how much additional reinstatement money will be collected, we cannot determine how many additional staff will be needed. Additionally, we cannot estimate the maintenance and/or equipment costs that may also be required to establish and maintain a payment plan system.

3. Certified lab reports could be used in lieu of expert testimony (unless a defendant objects) and intoxication levels for blood serum and plasma would be set. These provisions should reduce costs, as fewer expert witnesses will be necessary for court cases. Currently, approximately 90% of tests are done using breath as the testing substance; urine is tested next most often and blood is usually only taken when an individual's condition is such that no other means is possible (i.e. after an individual is unconscious).

#### **(IV) Vehicle Impoundment, Immobilization, and Forfeiture Procedures**

Existing law requires the immobilization and impoundment or forfeiture of a vehicle involved in an offender's second or subsequent OMVI offense in six years, regardless of whether the offender is the owner of the vehicle. The bill modifies this procedure to conform to the changes it makes in the state OVI penalty provisions. Under the bill, immobilization and impoundment apply only if the vehicle is registered in the offender's name. This change will result in a decrease in the number of impounded vehicles. Fewer impounded vehicles will result in less time in court for offenders and/or "innocent owners" trying to regain ownership, which should produce, at most, a minimal reduction in local adjudication costs.

The Department of Public Safety reported that, in calendar year 2000, the total number of second or subsequent OMVI incidents, and therefore vehicles impounded for OMVI offenses, was 27,339. Of the 27,339 impounded vehicles, 16,877 had no plate number and thus its owner was not known at the time of the infraction. Another 5,832 were registered to someone other than the driver, and 4,630 were registered to the driver. We do not know how many of the "no plate number" vehicles were registered to someone other than the offender. Therefore, at best, we can estimate that a minimum of around 6,000 fewer vehicles will be impounded as a result of the bill.

The costs involved in towing vary by jurisdiction and by the reason for the impoundment of the vehicle. Some police divisions have their own tow truck and impound lot, while others contract with private towing companies. Currently, the registered driver is responsible for paying the towing and storage fees to retrieve the vehicle, unless the court finds that the owner is innocent of knowing that the driver intended to use the vehicle.

#### **(V) Wrongful Entrustment**

The bill: (1) renames the offense of "permitting the operation of a vehicle by a person with no legal right to operate a vehicle" to the offense of "wrongful entrustment," and (2) prohibits a person from allowing another person from operating a motor vehicle if: (1) the offender knows or has reasonable cause to believe that the other person does not have a valid driver's license, (2) the offender knows or has reasonable cause to believe that the other person is in violation of the state's Financial Responsibility Law, or (3) the offender knows or has reasonable cause to believe that the other person's act of driving would be a violation of the state's OVI. The intent of these provisions is to tighten the language, thereby tightening the offense. LSC fiscal staff cannot estimate, at this time, how many additional cases will be prosecuted.

A violation of wrongful entrustment would be a misdemeanor of the 1st degree and a court would have to impose a Class 7 suspension (a definite period not to exceed one year) of the offender's license. The court must also order a definite period of immobilization of the offender's vehicle, if the vehicle involved is registered in the offender's name. Local criminal justice systems operated by counties and municipalities may experience an increase in annual expenditures related to the criminal prosecution and sanctioning of those who violate the bill's provisions. In addition to any fines and local court costs, those convicted must pay state court costs. For a misdemeanor conviction, this cost is \$20 (\$9 for the Victims of Crime Fund and \$11 goes to the GRF). In addition, offenders must pay a driver's license reinstatement fee, which will result in a gain in revenue to the appropriate funds.

## **(VI) Financial Responsibility**

- **Bureau of Motor Vehicles:** Minimal increased costs are estimated associated with data processing system changes.
- **Court System:** Minimal increased workload associated with this provision is offset by the estimated reduction in “driving under suspension” (DUS) violations.

### **Notable Provisions Factored into the Cost Estimate Analysis:**

1. To reduce the number of Driving Under Suspension (DUS) violations and associated costs, financial responsibility proof of insurance would only have to be filed for three years for individuals with a Class 4, 5, or 6 (lower level) suspension rather than five years for those individuals with a Class 1, 2, or 3 (higher level) suspension.
2. For drivers who show proof of responsibility for the 1<sup>st</sup> and/or 2<sup>nd</sup> offense within five years, the time individuals have to wait to receive “limited driving privileges” is reduced. With proof of financial responsibility, a 1<sup>st</sup> time offender may have no waiting period to drive again and a 2<sup>nd</sup> time offender may have to wait 15 days rather than the current requirement of 31 days. This may also reduce the number of DUS violations, as individuals may be more unlikely to drive while their licenses are suspended if the waiting period is less.

## **(VII) Other Traffic Proposals**

- **Court System: \$15 Processing Fee:** Minimal cost savings are estimated associated with reduced administrative costs. Related to the forfeiture of an individual’s driver or commercial driver license, the courts assess and collect a \$15 processing fee which is remitted to the BMV to help offset the costs associated with terminating a forfeiture. S.B. 123 would change the administrative process to have the fee be paid directly to the BMV rather than to the courts. This process currently requires the courts to then remit the funds to the BMV. Administrative costs may be slightly reduced associated with courts processing fewer checks.

Court Record Abstracts: Administrative costs are estimated to increase associated with the requirement that abstracts of court records must be sent to the BMV for dismissed and reduced cases. Under current law only conviction information is forwarded to the BMV. The courts would be required to send abstracts associated with all cases to the BMV within ten days. This would increase administrative costs of the courts.

- **Bureau of Motor Vehicles: \$15 Processing Fee:** A \$40,000 cost increase is estimated associated with the \$15 processing fee. Current annual volumes of these cases are 90,000. It is estimated 50% of these cases would pay the \$15 at the time reinstatement fees are paid at enforcement agencies or through the mail. Therefore, 45,000 additional transactions (representing a 33% workload increase) will require work by BMV staff. As a result, an associated need of one additional **staff person at an annual cost of \$40,000 is estimated.**

Court Record Abstracts: A minimal cost increase is estimated. The BMV currently records convictions on driver records. Most courts currently send these records electronically. The bureau does not estimate a significant cost increase associated with additional records being sent to them.

Notable Provisions Factored into the Cost Estimate Analysis:

Stated above.

**(VIII) Federal Funding Sanction Issues**

Notable Provisions Factored into the Cost Estimate Analysis:

1. Driver License Sanctions for Non-Payment of Child Support: Federal law requires the sanctioning of driving privileges associated with non-payment of child support. A provision in S.B. 123 repeals current law related to the Bureau of Motor Vehicles (O.R.C. sec.4507.111) sanctioning the driving privileges of those individuals who have not paid child support. However, existing language within the statutes governing the Department of Human Services (O.R.C. sec.2301.374(C)) continues to require the Bureau of Motor Vehicles to sanction driver license privileges for non-payment of child support. Therefore, no federal funding sanctions associated with this provision are estimated.
2. Allowing Driving Privileges After a Driver License Suspension Associated with Drug Use: According to the Code of Federal Regulations, Title 23, Section 192.4 the U.S. Secretary of Transportation must sanction of portion of a state's highway apportionments if a state does not meet certain requirements. Currently, states are required to revoke or suspend an individual's driver license, for at least six months, for a person who commits a drug offense.

A provision of S.B. 123 amends current law to allow judges to allow driving privileges to those individuals who have had their driving privileges suspended due to drug related violations. Per a 1996 communication from the Federal Highways Administration, states are allowed to make exceptions to the federal requirements associated with drug use affecting driving privileges. Therefore, no federal funding sanctions are estimated.

**(IX) Training Costs**

Appropriations

If moneys are appropriated or if there are any other funds available, the Attorney General (in conjunction with the Department of Public Safety and the Ohio Criminal Sentencing Commission) is required to develop, print and distribute training materials for the Ohio Department of Public Safety, law enforcement, and other appropriate persons for the implementation of this act. Potential **one-time costs of \$211,000** are estimated and may occur completely or partially in FY 2003 or any future fiscal year.

Apparently the Attorney General would be responsible for determining whether "there are any funds available." However, it is not specified at what point in time this would be determined. If no

funds are determined to be available and if no funds are appropriated, LSC assumes that each law enforcement agency requiring training materials will fund them individually. Since prices could vary, total training material costs could be greater or less than the \$211,000 originally estimated when it was assumed the AG would provide them.

Many provisions of the bill would be effective on January 1, 2004. Training will need to be in effect at this time in order to properly enforce the newly effective laws. Therefore, no additional funds are believed to be necessary for future training endeavors. Instead, the new law changes will automatically become a part of law enforcement training measures.

### Training Programs

The Ohio State Highway Patrol and the Department of Public Safety believe that either of two possible training alternatives could be utilized to properly train law enforcement officers across the state of Ohio. The first method, Alternative 1, takes a decentralized approach, with officers across the state trained separately. Alternative 2 takes a more comprehensive approach and places the Attorney General's office and the Department of Public Safety as coordinators of the training program. The two training programs are described below:

#### ***Alternative 1: Estimated Costs for Decentralized Training***

The following information assumes a decentralized training program where each group would train their staff and would not be responsible for a comprehensive statewide effort.

#### **Local Law Enforcement:**

The following cost estimate ranges from **\$2,968,100 - \$3,881,400** and assumes the following:

1. Individuals will be required to take an additional 6.5 hours per year of training related to S.B. 123 provisions if they become law.
2. Overtime (time and ½) would be used for individuals to attend training.
3. An additional 2 hours may be necessary for travel time if training is done in a coordinated effort for and by local law enforcement rather than locally.
4. Material costs are included in the Attorney General's Office section.
5. 1998 data from the Sourcebook of Criminal Justice Statistics reports 1996 statistics that there are approximately 21,100 local law enforcement officers.

#### **Attorney General's Office:**

If moneys are appropriated or if there are any other funds available, the Attorney General (in conjunction with the Department of Public Safety and the Ohio Criminal Sentencing Commission) is required to develop, print and distribute training materials for the Ohio Department of Public Safety, law enforcement, and other appropriate persons for the implementation of this act. Potential one-time costs of \$211,000 are estimated and may occur completely or partially in FY 2003 or any future fiscal year.

1. Apparently the Attorney General would be responsible for determining whether “there are any funds available.” However, it is not specified at what point in time this would be determined. If no funds are determined to be available and if no funds are appropriated, LSC assumes that each law enforcement agency requiring training materials will fund them individually.

#### **Ohio State Highway Patrol:**

Increased costs of **\$183,500** assume the following:

1. Approximately 1,500 sworn officers would require approximately 4 hours of training. Additional costs associated with training materials are not included.
2. This estimate does not include assumptions associated with training additional individuals beyond the 1,500 sworn officers and does not include costs associated with a statewide information campaign.

#### **Bureau of Motor Vehicles:**

Minimal increased costs are anticipated.

#### **The Department of Natural Resources and the Ohio Judicial Conference:**

No increased costs are anticipated. These groups already have training in place and anticipate being able to include any new training associated with this legislation into their existing program.

#### ***Alternative 2: Centralized Training***

#### **Department of Public Safety and Local Law Enforcement:**

An alternative would be to assume that the Ohio State Highway Patrol/Department of Public Safety (OSHP/DPS) would take responsibility for coordinating a statewide training effort for all affected parties. Alternative 2 assumes:

1. Two DPS staff (one staff attorney and an additional staff person) would travel the state for approximately four months to provide training locally to those groups requiring training at an **estimated cost of \$50,000** for their time and travel costs.
2. 2,500 individuals would actually attend the training (and would then provide training for their co-workers). **Costs for approximately 23,800 individuals statewide are included.**
3. Patrol post sites could be used and, if not, minimal building rental costs may be necessary.
4. Training is estimated at 4-8 hours including time for the possibility that individuals may have to drive up to an hour to reach training sites.

#### **Attorney General’s Office:**

If moneys are appropriated or if there are any other funds available, the Attorney General (in conjunction with the Department of Public Safety and the Ohio Criminal Sentencing Commission) is required to develop, print and distribute training materials for the Ohio Department of Public Safety, law enforcement, and other appropriate persons for the implementation of this act. Potential one-time costs of \$211,000 are estimated and may occur completely or partially in FY 2003 or any future fiscal year.

Apparently the Attorney General would be responsible for determining whether “there are any funds available.” However, it is not specified at what point in time this would be determined. If no funds are determined to be available and if no funds are appropriated, LSC assumes that each law enforcement agency requiring training materials will fund them individually.

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## ***Detailed Fiscal Analysis***

### **Fiscal Effect on OP&F**

The bill provides for the establishment of a deferred retirement option plan (DROP) under the Ohio Police and Fire Pension Fund (OP&F). Members of OP&F who are eligible for normal service retirement can elect to participate in the DROP. Participants in the DROP must agree to terminate employment within eight years after electing to join the DROP. Participants will accrue within an account the following: the member's monthly retirement allowance, annual cost-of-living increases, 50% of employee contributions made during the first two years in the DROP, 75% of employee contributions made during the third year, 100% of employee contributions made during the fourth through eighth years and annual compound interest. The balance of employee contributions and all employer contributions will be contributed to the Police Officers' Contribution Fund or the Firefighters' Contribution Fund. At retirement, the member receives all of the money accumulated in his or her account.

According to an actuarial analysis conducted by Milliman USA and dated October 4, 2001, the DROP could increase or decrease the costs of the OP&F. Pension costs will increase dependent on the number of members who would have delayed retirement under the current law and elect to join the DROP. This is due to the fact that OP&F will begin paying their pension benefits sooner than otherwise. However, health care costs to OP&F will drop due to the fact OP&F will not be responsible for health benefits of members who are participating in the DROP program. Furthermore, OP&F will continue to receive employee and employer contributions for the members participating in the DROP.

Milliman USA also found that the bill would increase the unfunded actuarial accrued liability of OP&F to 41 years from 27 years. (This would violate ORC 742.16, which requires OP&F to have an amortization period of 30 years or less by January 2006). However, Milliman USA also found that if OP&F reallocated 0.25% of employer contributions to pensions from health care, the amortization period would be 30 years by January 2006.

An important fiscal aspect of the bill is that it requires the OP&F Board to actuarially analyze the financial effects of the DROP at least once every five years. If the analysis determines that the DROP has a negative financial impact on OP&F, the bill allows the Board to modify the plan or cease to allow members who have not already done so to participate in the plan. However, the language in the bill is not mandatory and the OP&F Board is not obligated to modify the plan or cease to offer the plan upon such a finding. Furthermore, the bill does not allow the board to increase employer contributions as a modification of the plan to offset any negative financial impact.

## **Fiscal Effect on Local Governments**

According to the actuarial analysis conducted by Milliman USA, the bill could either increase or decrease long-term costs to OP&F. Under current law, if the bill were to increase costs to OP&F, it would have been a possibility that employer contribution rates would increase in order to offset the increased costs. However, the bill does not allow the board to increase employer contribution rates in order to offset any negative financial impact of the plan.

Local governments may pay higher salary costs overall for police and fire departments if higher-salaried, longer-tenured employees decide to continue employment due to the incentive created by the DROP. The size of this effect would depend on the decision of individual employees, as well as the personnel policies of each local government.

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## ***Local Fiscal Highlights***

| LOCAL GOVERNMENT                            | FY 2002 | FY 2003            | FUTURE YEARS   |
|---|---------|--------------------|--|
| <b>Counties and other local governments</b> |         |                    |  |
| Revenues                                    | - 0 -   | \$0.8 million loss | At least \$1.0 million loss from the tax credits; Potential loss from sales, tangible and personal property tax exemptions |
| Expenditures                                | - 0 -   | - 0 -              | - 0 -  |

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- Corporate franchise and personal income tax credits decrease state revenues to the Local Government Fund (LGF), the Library and Local Government Support Fund (LLGSF), and the Local Government Revenue Assistance Fund (LGRAF). The revenue loss to local governments would depend on the total number of investors, their investments in the ethanol plants, and their tax liability.
- Under the Ohio Air Quality Development Authority tax incentives, the ethanol plants would be exempt from local real property and tangible personal property taxes. This would decrease revenues to counties, municipalities, townships, and school districts where the ethanol plants are located.
- Exemptions from the sales and use tax available to projects financed through OAQDA may reduce sales tax revenue under the County Permissive Sales Tax, County Additional Sales Tax and Transit Authority Sales Tax. Also, 4.8 percent of state sales tax revenues are deposited into local government funds. Distributions from the state sales tax to the Local Government Fund (LGF) and the Local Government Revenue Assistance Fund (LGRAF) would be foregone.

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## ***Detailed Fiscal Analysis***

Am. Sub. S.B. 144 creates an Ethanol Incentive Board and authorizes nonrefundable personal income and corporation franchise tax credits for capital investments in ethanol plants approved by the Ethanol Incentive Board. The tax credits are available beginning in tax year 2002 and ending in tax year 2012. The five-member Ethanol Board is to serve without compensation and will cease to exist on January 1, 2014. Ethanol plants would be constructed and operated by organizations that are majority-owned by Ohio farmers. The nonrefundable tax credits are capped at \$5,000 per investor with a carry forward provision for three years after the year the credit is first claimed. The bill also modifies the definition of air quality facilities and makes ethanol plants eligible for Ohio Air Quality Development Authority (OAQDA) financing. Nationwide, some ethanol plants are corporations. Most of the farmer-owned ethanol plants are Limited Liability Partnerships (LLPs) or Limited Liability Corporations (LLCs). As such, they are pass-through entities that distribute net income from the ethanol plant to investors. This income would then be subject to either the individual income tax or the corporate franchise tax. Investors may participate in multiple LLCs or LLPs, each of which invests in several ethanol plants.

LSC assumes that the Ethanol Incentive Board would authorize several ethanol or biofuel plants to make Ohio self-sufficient in ethanol or biofuels,<sup>1</sup> although the timing of approvals and construction of plants cannot be determined. It is reasonable to expect that no ethanol plant approved by the Ethanol Board will be operating in Ohio in the current biennium. However, funds may be committed in calendar year 2002 and claimed in tax returns for that year, thus affecting FY 2003 revenues. Most farmer-owned ethanol plants are dry mill plants, which are less expensive to build than wet mill plants. LSC assumes that the initial ethanol plant would be a dry mill plant that processes corn. Capital costs for a dry mill plant vary from \$1.20 to \$1.50 per gallon of ethanol produced. Assuming a 40 million gallon per year (mgy) dry mill ethanol plant, capital investments would be about \$52.0 million.<sup>2</sup> In existing farmers' cooperatives that own ethanol plants, members generally contribute 30 to 50 percent of the capital cost of the plants. Thus, total investment eligible for the tax credits on a \$52 million investment would be approximately \$26.0 million.<sup>3</sup> This assumes that each individual farmer-investor contributes a maximum of \$5,000 for the plant.

The overall fiscal effect of S.B. 144 is dependent on the structure of the financing of any approved ethanol facility and the type and the size of the facility. It would also depend on the number of investors, their individual contributions, and the tax liabilities to which the \$5,000 tax credit (or reduction in tax liability) would be applied.

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<sup>1</sup> To make Ohio self-sufficient at the current ethanol consumption level of 200 million gallons per year, Ohio may need about five 40-mgy (million gallons per year) plants.

<sup>2</sup> *Determining the Cost of Producing Ethanol from Corn Starch and Lignocellulosic Feedstocks*. A Joint Study Sponsored by the U.S. Department of Agriculture and the U.S. Department of Energy; National Renewable Energy Laboratory. October 2000.

<sup>3</sup> Farmer-investors will provide about half of the capital investment (Sponsor's testimony on S.B. 144 on October 16, 2001).

Table 1 illustrates the potential state revenue loss from S.B. 144 under various scenarios of contribution per investor, number of investors, total credits earned (at the maximum of \$5,000 per investor) and total earned credits claimed. Credits earned and credits claimed are in millions of dollars. Table 1 shows that the credits earned by investors may range from \$3.25 million to \$13.0 million, depending on the number of investors. Because the tax credits are nonrefundable, the potential state revenue loss will be limited and would depend on actual credit claims and carryovers. At 50 percent credit claims, state revenue loss would be between \$1.6 million and \$6.5 million. At 25 percent credit claims, state revenue loss would be between \$0.8 million and \$3.3 million.

Table 1: Potential State Revenue Loss by Number of Investors and Earned Credits Claimed (in millions).

| Investment | Number of investors | Credits Earned | Credits Claimed @ 50% | Credits Claimed @ 25% |
|------------|---------------------|----------------|-----------------------|-----------------------|
| \$10,000   | 2,600               | \$13.0         | \$6.5                 | \$3.3                 |
| \$15,000   | 1,733               | \$8.7          | \$4.3                 | \$2.2                 |
| \$20,000   | 1,300               | \$6.5          | \$3.2                 | \$1.6                 |
| \$25,000   | 1,040               | \$5.2          | \$2.6                 | \$1.3                 |
| \$30,000   | 867                 | \$4.3          | \$2.2                 | \$1.1                 |
| \$35,000   | 743                 | \$3.7          | \$1.9                 | \$0.9                 |
| \$40,000   | 650                 | \$3.3          | \$1.6                 | \$0.8                 |

Due to the structure of the tax credit, LSC believes that most investors may invest about \$10,000 and a little more because the tax credit amount may yield a return on investment of up to 50 percent for investors with enough personal or corporate tax liabilities.

Table 2 provides General Revenue Fund (GRF) and various local government fund revenue losses for **one 40-mgy ethanol plant, qualifying investments of \$26 million and 2,600 investors, a rate of 25 percent for credit claims, and a carry forward rate of 20 percent.** LSC assumes most tax credit claims will be against the state personal income tax (if most ethanol plants are LLCs or LLPs). The GRF receives 89.5 percent of state personal income taxes. The Library and Local Government Support Fund (LLGSF) receives 5.7 percent of state personal income taxes. The Local Government Fund (LGF) and the Local Government Revenue Assistance Fund (LGRAF) receive the remainder of the state personal income tax, or 4.8 percent.

Table 2: GRF and local government funds revenue losses, in millions.

| Fiscal Year          | State Revenue Loss | GRF Loss | LLGSF Loss | LGF/LGRAF Loss |
|----------------------|--------------------|----------|------------|----------------|
| FY 2003 <sup>4</sup> | \$2.6              | \$2.6    | \$0.0      | \$0.0          |
| FY 2004              | \$2.1              | \$1.9    | \$0.1      | \$0.1          |
| FY 2005              | \$1.7              | \$1.5    | \$0.1      | \$0.1          |

<sup>4</sup> The current biennium budget freezes contributions to local government funds. Therefore, FY 2003 state revenue loss is also GRF loss.

|         |       |       |       |       |
|---------|-------|-------|-------|-------|
| FY 2006 | \$1.3 | \$1.2 | \$0.1 | \$0.1 |
|---------|-------|-------|-------|-------|

A higher rate of credit claims would generate higher revenue losses for the GRF and local government funds. For example, a rate of 50 percent for credit claims would decrease GRF revenues by \$5.2 million in fiscal year 2003. In future years, with the potential of several eligible ethanol plants<sup>5</sup> authorized by the Ethanol Board, yearly GRF revenue loss would be higher depending on the total number of investors and tax credits claimed by the various investors.

### **Ethanol plant as a qualified “air quality facility”**

S.B. 144 widens the definition of “air quality facility” under the existing Air Quality Development Authority (OAQDA) to include ethanol or biofuel plants. This makes ethanol and biofuel plants eligible to receive financing through OAQDA. OAQDA provides grants and loans, and issues revenue bonds. Thus, OAQDA may incur additional minimal expenditures due to S.B. 144. Any eligible ethanol plant would receive exemptions from the sales and use tax and exemptions from real and tangible personal property taxes.

Exemptions from the state sales and use tax will reduce GRF revenues. The GRF receives 95.2 percent of the state sales tax revenue. Exemptions from the sales and use tax available to projects financed through OAQDA may reduce sales tax revenue under the County Permissive Sales Tax, County Additional Sales Tax and Transit Authority Sales Tax. Also, 4.8 percent of state sales tax revenues are deposited into local government funds. Distributions from the state sales tax to the Local Government Fund (LGF) and the Local Government Revenue Assistance Fund (LGRAf) would be foregone.

Revenue from real and tangible personal property taxes are distributed to counties, municipalities, townships and school districts. The location of the ethanol or biofuel plants would determine local revenue loss from the tangible and real property tax exemptions. **Local revenue loss due to the real and property tax exemptions would be variable based on local tangible and real property tax rates.**

*LSC fiscal staff: Jean J. Botomogno, Economist*

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<sup>5</sup> If the ethanol plants were mostly wet mill ethanol plants, GRF revenue loss may be even larger because of a higher initial investment per plant.



- **Sexual predator hearings.** The provisions of the bill as they relate to the conduct of sexual predator hearings should not affect state revenues and expenditures.
- **Civil action immunity.** The state may realize a reduction in its annual expenditures on legal services and judicial operations, as it could find itself defending fewer civil actions in the Court of Claims, which has original, exclusive jurisdiction over all civil actions filed against the State of Ohio and its agencies and departments. The bill may also reduce the amount that the state would otherwise have to payout annually from the General Revenue Fund (GRF) and various other state funds to settle such matters. The size of the potential decrease in annual state expenditures related to adjudicating, defending, and settling civil matters pursued by certain individuals is difficult to predict.
- **Filing fee revenues.** The state may lose some annual filing fee revenues, as fewer civil cases are initiated or move into the trial phase. Although it is extremely problematic to estimate the number of civil matters that could be affected by the bill, it appears that the number will be relatively small and that the potential loss in annual filing fee revenues that would otherwise be collected and deposited in the GRF should be negligible.
- **Importuning violations.** The bill's provision making certain importuning violations a sexually oriented offense will in all likelihood increase the number of adult offenders and adjudicated delinquent children that will have to register with county sheriffs and thus add to the workload of the Office of the Attorney General's Bureau of Criminal Identification and Investigation, the Department of Rehabilitation and Correction, and the Department of Youth Services. However, as LSC fiscal staff have not collected any information suggesting that this increase in the number of sex offender registrants would be very large, it seems likely that any cost associated with this additional work for any of these three state entities would be negligible annually.
- **Court cost revenues.** There may be at most a negligible annual gain in locally collected state court costs that are generated for the GRF and the Victims of Crime/Reparations Fund (Fund 402) because some adult offenders and adjudicated delinquent children or their parents or legal guardian will be found by a criminal or juvenile court to have failed to comply with the registration requirements imposed under the state's Sex Offender Registration and Notification Law.

## ***Local Fiscal Highlights***

| LOCAL GOVERNMENT | FY 2002  | FY 2003  | FUTURE YEARS  |
|------------------|--|--|---|
| <b>Counties</b>  |  |  |   |
| Revenues         | Potential gain, no more than minimal   | Potential gain, no more than minimal   | Potential gain, no more than minimal annually   |
| Expenditures     | Factors increasing and decreasing costs with net fiscal effect uncertain, but more than a minimal increase in some counties possible | Factors increasing and decreasing costs with net fiscal effect uncertain, but more than a minimal increase in some counties possible | Factors increasing and decreasing costs with net annual fiscal effect uncertain, but more than a minimal increase in some counties possible |

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- **Sexual predator hearings.** Although the net fiscal effect of the bill’s sexual predator hearing provisions on county criminal justice systems is uncertain, it appears that, if these political subdivisions would experience an increase in annual expenditures related to sexual predator hearings, it would be at most minimal.
- **Community notification.** The bill expands the category of “neighbors” who must be notified of a sexual predator’s or certain habitual sex offender’s registration. The Buckeye State Sheriffs’ Association has indicated that this expansion of the category of “neighbors” could create significant costs in the state’s more urban jurisdictions. As county sheriffs are generally only notifying neighbors directly adjacent to a sex offender’s residence, in a densely packed urban area, the Buckeye Sheriffs’ Association believes that the number of neighbors that would have to be notified could triple or quadruple.
- **Prior notice of intent to reside.** The bill increases from “at least seven” to “at least twenty” the number of days prior to changing or taking up residence that sex offenders must provide a written notice and register with a county sheriff. This provision of the bill should not place any additional registration and notification burdens on county sheriffs, as it will not result in an increase in the number or types of registered sex offenders from what would have occurred under current law.
- **Civil action immunity.** As the state’s Court of Claims has original, exclusive jurisdiction over all civil actions filed against the State of Ohio and its agencies and departments, it appears unlikely that the bill’s civil immunity provision will produce any direct fiscal effect on the annual revenues and expenditures of local governments.
- **Importuning violations.** Under the bill, persons found to have committed certain importuning violations are subject to registration and other requirements under the state’s Sex Offender Registration and Notification (SORN) Law. The effect of this provision will in all likelihood be to increase the number of adult offenders and adjudicated delinquent children that will have to register with county sheriffs around the state. Under current law, courts are already required and permitted to take certain actions relative to the classification of an adult offender or an adjudicated delinquent child as a person subject to the SORN Law, and county sheriffs already bear the burden of operating a sex offender registration and notification system. However, as LSC fiscal staff have not collected any information suggesting that this increase in the number of adult offenders and adjudicated delinquent children registering as sex offenders would be very large in any given county, it seems unlikely that the cost of this additional work for either a court or a county sheriff would exceed minimal annually.

- **Failure to comply.** It is possible that additional cases may be prosecuted in criminal court and additional cases will be adjudicated in juvenile court because adult offenders and adjudicated delinquent children or their parents or legal guardian fail to comply with the state’s registration requirements. These new cases could increase annual county expenditures related to investigating, prosecuting, adjudicating, defending (if indigent), and sanctioning these adult offenders and adjudicated delinquent children, their parents or legal guardian. It appears, however, that, on an annual basis, the number of these possible new criminal prosecutions or adjudications in a given jurisdiction would be relatively small. Thus, any such increases in county expenditures related to these new criminal prosecutions and adjudications would likely be no more than minimal.
  - **Revenues.** Court cost and fine revenues generated for counties may also be affected by the bill as a result of the existing law that criminalizes the failure of adult offenders and adjudicated delinquent children, their parents or legal guardian to comply with registration requirements. At this time, it appears that a relatively small number of these cases may actually be prosecuted in criminal court or adjudicated in juvenile court, and thus, at most, a minimal amount of additional court cost and fine revenues may be collected by counties annually.
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## ***Detailed Fiscal Analysis***

From a fiscal perspective, the bill has the following six key features:

- (1) Revises the law regarding sexual predator determination hearings for certain offenders convicted of a sexually oriented offense.
- (2) Makes Department of Rehabilitation and Correction employees generally immune from liability in a civil action for acts under the Sex Offender Registration and Notification Law.
- (3) Makes certain importuning violations a sexually oriented offense.
- (4) Increases the time at which certain prior notices must be given to a county sheriff by certain sex offenders.
- (5) Expands the categories of persons in the community who must be notified by the county sheriff of a sexual predator’s or habitual sex offender’s registration.
- (6) Declares an emergency.

### **Sexual predator hearings**

A portion of the bill essentially responds to a recent criminal case in which the Supreme Court of Ohio ruled that, in the matter of an offender convicted of a sexually oriented offense but not found guilty of a sexually violent predator specification, a sentencing judge cannot then conduct a hearing to determine whether the offender is a sexual predator. Under the bill, the Revised Code would be modified so that the sentencing judge in this circumstance would be required to hold such a hearing.

The impact of this feature of the bill, which will be felt by county criminal justice systems and their courts of common pleas, could be twofold and largely depends upon current local sexual predator hearing practices around the state.

First, the bill will require, under the circumstances outlined above, that a sentencing judge conduct a hearing to determine whether an offender is a sexual predator. Legislative Service Commission fiscal staff believe that the number of required additional hearings will be relatively small in the jurisdiction of any given court of common pleas and that any resulting increase in annual county adjudication, prosecution, and indigent defense counsel costs should be no more than minimal.

Second, the bill specifies that, in the case of an offender convicted of or pleading guilty to a sexually violent predator specification, the sentencing court cannot then conduct a hearing to determine whether the offender is a sexual predator. This provision may reduce the number of sexual predator hearings that are occurring in some jurisdictions if a sentencing judge believes that he or she is required to conduct a hearing when an offender has already been convicted of or plead guilty to a sexually violent predator specification. By stating that, under these circumstances a sentencing judge shall not hold a hearing to determine whether the offender is a sexual predator, counties may experience a decrease in annual adjudication, prosecution, and indigent defense counsel costs. The size of that potential expenditure decrease annually would depend upon the degree to which the practice of a particular court of common pleas was to conduct such hearings.

Although the net fiscal effect of these two provisions on county criminal justice systems is uncertain, it appears that, if these political subdivisions were to experience an increase in annual expenditures related to sexual predator hearings, it would be no more than minimal. County revenues should be unaffected by these two provisions of the bill.

These two provisions of the bill as they relate to the conduct of sexual predator hearings should not affect state revenues and expenditures.

### **Civil action immunity**

The bill provides immunity from liability in a civil action to Department of Rehabilitation and Correction employees generally in connection to duties under the Sex Offender Registration and Notification (SORN) Law.

As the state's Court of Claims has original, exclusive jurisdiction over all civil actions filed against the State of Ohio and its agencies and departments, it appears unlikely that this feature of the bill will produce any direct fiscal effect on the annual revenues and expenditures of local governments.

Conversely, from the state's perspective, a fiscal effect is possible as this immunity provision may curtail certain formal civil legal actions or proceedings. If that were in fact to happen, then the state may lose some annual filing fee revenues, as fewer civil cases are initiated or move into the trial phase. Although it is extremely problematic to estimate the number of civil matters that could be affected by the bill, it appears that the number will be relatively small and that the potential loss in annual filing fee revenues for the state would be negligible.

The state may also realize a reduction in its annual expenditures on legal services and judicial operations, as it could find itself defending fewer civil actions in the Court of Claims. The bill may also reduce the amount that the state would otherwise have to payout annually to settle such matters. The size of the potential decrease in annual state expenditures related to adjudicating, defending, and settling civil matters pursued by certain individuals is difficult to predict.

### **Importuning violations**

The bill makes a few changes to the offense of importuning, most notably making solicitation by means of a telecommunications device, a sexually oriented offense, which means that persons found to have committed such violations are subject to registration and other requirements under the state's SORN Law. The effect of this provision will in all likelihood be to increase the number of adult offenders and adjudicated delinquent children that will have to register with county sheriffs around the state. At this time, LSC fiscal staff are unable to estimate what that increase in the number of adult offenders and adjudicated delinquent children required to register with a county sheriff might be in any given county, however, no information has been collected suggesting that any such increase would be very large.

**Courts and county sheriffs.** Under current law, courts are already required and permitted to take certain actions relative to the classification of an adult offender or an adjudicated delinquent child as a person subject to the SORN Law, and county sheriffs already bear the burden of operating a sex offender registration and notification system. These adult offenders and adjudicated delinquent children are required to register with the county sheriff, who is in turn responsible, in the case of some adult offenders and adjudicated delinquent children, for notifying certain individuals and entities. County sheriffs are also required to forward address verifications and related information to the Office of the Attorney General's Bureau of Criminal Identification and Investigation (BCII). However, as LSC fiscal staff have not collected any information suggesting that this increase in the number of adult offenders and adjudicated delinquent children registering as sex offenders would be very large in any given county, it seems unlikely that the cost of this additional work for either a court or a county sheriff would exceed minimal annually.

**State burdens.** Pursuant to current law, the Office of the Attorney General has established and maintains the State Registry of Sex Offenders, which is housed at BCII. This registry contains all of the adult sex offender information forwarded from local officials and the Department of Rehabilitation and Correction (DRC). BCII also forwards this information to the FBI for inclusion in its National Sex Offender Database. With the enactment of Am. Sub. S.B. 3 of the 124th General Assembly, effective January 1, 2002, certain adjudicated delinquent children have been added to the registry and related information is now being forwarded by the Department of Youth Services (DYS).

The bill will in all likelihood increase the number of adult offenders and adjudicated delinquent children that will have to register with county sheriffs and thus add to the workload of BCII, DRC, and DHS. However, as LSC fiscal staff have not collected any information suggesting that this increase in the number of sex offender registrants would be very large, it seems likely that any cost associated with this additional work for any of these three state entities would be negligible.

### **Prior notice of intent to reside**

The bill increases from “at least seven” to “at least twenty” the number of days prior to changing or taking up residence that sex offenders must provide a written notice and register with a county sheriff. This provision of the bill should not place any additional registration and notification burdens on county sheriffs, as it will not result in an increase in the number or types of registered sex offenders from what would have occurred under current law. If anything, by increasing the time of prior notice, a county sheriff may be able to be more efficiently and effectively management their sex offender registration and notification system. It is also possible that adult offenders and adjudicated delinquent children classified as sex offenders, or the latter’s parents or legal guardian will fail to comply with the 20-day prior notice requirement. Failure to do so constitutes a violation of the offender’s requirements under the existing SORN Law and can result in their arrest and prosecution.

### **Community notification**

The bill expands the category of “neighbors” who must be notified of a sexual predator’s or certain habitual sex offender’s registration. The Office of the Attorney General’s Bureau of Criminal Identification and Investigation, which maintains the State Registry of Sex Offenders, has reported that, as of February 25, 2002, of the 7,544 sex offenders registered statewide in Ohio, community notification applied to 965 (862 sexual predators and 103 habitual sex offenders).

In a conversation about the community notification duties of county sheriffs, the Buckeye State Sheriffs’ Association indicated that this expansion of the category of “neighbors” could create significant costs in the state’s more urban jurisdictions. As county sheriffs are generally only notifying neighbors directly adjacent to a sex offender’s residence, in a densely packed urban area, the Buckeye State Sheriffs’ Association believes that the number of neighbors that would have to be notified could triple or quadruple. Currently, this community notification process takes about two hours of a county sheriff’s time per sex offender. It has been suggested that this community notification expansion could increase that amount of time spent on community notification to up to 16 hours per sex offender.

### **Failure to comply**

It is possible that additional cases may be prosecuted in criminal court and additional cases will be adjudicated in juvenile court because adult offenders and adjudicated delinquent children, their parents or legal guardian fail to comply with the state’s registration requirements. These new cases could increase annual county expenditures related to investigating, prosecuting, adjudicating, defending (if indigent), and sanctioning these adult offenders and adjudicated delinquent children, their parents or legal guardian. It appears, however, that, on an annual basis, the number of these possible new criminal prosecutions or adjudications in a given jurisdiction would be relatively small. Thus, any such increases in county expenditures related to these new criminal prosecutions and adjudications would likely be no more than minimal.

### *State and local revenues*

Court cost and fine revenues generated for counties and the state may be affected by the bill as a result of the existing law that criminalizes the failure of adult offenders and adjudicated delinquent children, their parents or legal guardian to comply with registration requirements. At this time, it appears that a relatively small number of these cases may actually be prosecuted in criminal court or adjudicated in juvenile court, and thus, at most, a minimal amount of additional court cost and fine revenues may be collected by counties annually. The amount of additional locally collected state court cost revenues that might be collected and deposited to the credit of the state GRF and the Victims of Crime/Reparations Fund (Fund 402) would be negligible.

*LSC fiscal staff: Laura A. Potts, Budget Analyst*

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# Fiscal Note & Local Impact Statement

124<sup>th</sup> General Assembly of Ohio

Ohio Legislative Service Commission  
77 South High Street, 9<sup>th</sup> Floor, Columbus, OH 43215-6136 ✦ Phone: (614) 466-3615  
✦ Internet Web Site: <http://www.lsc.state.oh.us/>

BILL: **Am. Sub. S.B. 180** DATE: **December 10, 2002**

STATUS: **As Enacted - Effective April 9, 2003** SPONSOR: **Sen. Armbruster**  
(Certain provisions effective November 1, 2003)

LOCAL IMPACT STATEMENT REQUIRED: **Yes**

CONTENTS: **Creates the Ohio Venture Capital Program to provide for the direction of moneys from loans into investments in venture capital funds secured through Program revenues and refundable and nonrefundable tax credits that may be claimed against the corporation franchise tax, the personal income tax, the domestic insurance tax or the foreign insurance tax; requires state and county taxing officials to notify local taxing authorities of pending pollution control tax exemption applications; allows certain real property taxpayers to file a complaint with the Board of Tax Appeals; prohibits municipal corporations from taxing S corporations shareholders' distributive shares of net profits; and makes changes to the job retention tax credit**

## State Fiscal Highlights

| STATE FUND                            | FY 2003 | FY 2004   | FUTURE YEARS   |
|---------------------------------------|---------|---|--|
| <b>General Revenue Fund</b>           |         |   |  |
| Revenues                              | - 0 -   | \$2.5 million loss from changes to the job retention tax credit | Up to \$19.0 million loss per year depending upon the amount of venture capital program tax credits granted and claimed; Annual loss from changes to the job retention tax credit increasing by \$2.5 million per year to \$10.0 million in FY 2007 and thereafter |
| Expenditures                          | - 0 -   | Potential minimal increase                                      | Potential minimal increase   |
| <b>Ohio Venture Capital Fund</b>      |         |   |  |
| Revenues                              | - 0 -   | Potential gain  | Potential gain   |
| Expenditures                          | - 0 -   | - 0 -   | -0-  |
| <b>Ohio Department of Development</b> |         |   |  |
| Revenues                              | - 0 -   | - 0 -   | - 0 -  |
| Expenditures                          | - 0 -   | Potential increase of up to \$90,000                            | Potential increase of up to \$90,000   |

Note: The state fiscal year is July 1 through June 30. For example, FY 2003 is July 1, 2002 – June 30, 2003.



- The bill creates the Ohio Venture Capital Authority, the Ohio Venture Capital Program, and the Ohio Venture Capital Fund in the state treasury.
- The Ohio Venture Capital Authority will establish lending and investment policies and provide for the direction of private moneys in the Ohio venture capital program investment fund. The program fund will consist of proceeds from loans acquired by the program administrator and interest earned on moneys in the fund. Loans and investments made through the Ohio Venture Capital Program will be guaranteed by moneys in the Ohio Venture Capital Fund and, if necessary, by tax credits granted to investors by the Authority.
- The Authority may grant refundable and nonrefundable corporate franchise, personal income, domestic insurance or foreign insurance tax credits to certain investors incurring specified losses in the Ohio Venture Capital Program. The General Revenue Fund receives 95.2 percent of corporate franchise tax revenues, 89.5 percent of personal income tax revenues, and 100 percent of revenues from the insurance taxes.
- The Department of Development will provide the Ohio Venture Capital Authority with space and technical assistance. This may increase yearly expenditures by about \$90,000 for the Department of Development.
- The bill requires state and county officials to notify local taxing authorities of pending pollution control tax exemption applications. The Department of Taxation estimates a 5 percent increase in expenditures related to pollution control tax exemption applications, or \$3,750. Currently, the Department spends approximately \$75,000 a year on the Pollution Control Tax Exemption Program. ( $\$75,000 \times 5\% = \$3,750$ )
- The bill proposes to allow certain real property taxpayers to file a complaint with the Board of Tax Appeals. Due to the small number of taxpayers that would be eligible to re-file, the BTA will incur only a minimal increase in expenditures.
- The bill modifies the new job retention tax credit (Am. Sub. H.B. 405) and makes companies that invest in research and development eligible for the job retention tax credit. The bill also decreases to \$100 million the minimum amount of investment required to qualify for the credit. These changes to the job retention credit will decrease revenues to the General Revenue Fund. GRF receives 95.2 percent of corporate franchise tax revenues.

### ***Local Fiscal Highlights***

| <b>LOCAL GOVERNMENT</b>               | <b>FY 2003</b> | <b>FY 2004</b>  | <b>FUTURE YEARS</b>  |
|---------------------------------------|----------------|---|--|
| <b>Counties and Local Governments</b> |                |   |  |
| Revenues                              | - 0 -          | \$0.1 million loss from changes to the job retention tax credit | Up to \$1.0 million loss depending upon the amount of venture capital tax credits granted and claimed; Annual loss from changes to the job retention tax credit increasing by \$0.1 million per year to \$0.5 million in FY 2007 and thereafter. |

|   |  |  |  |
|---|--|--|--|
| Expenditures  | - 0 -  | - 0 -  | - 0 -  |
| <b>Municipal Corporations</b>                       |  |  |  |
| Revenues  | Potential loss from not taxing distributions from S Corporations | Potential loss from not taxing distributions from S Corporations | Potential loss from not taxing distributions from S Corporations |
| Expenditures  | - 0 -  | - 0 -  | - 0 -  |
| <b>County Boards of Revisions</b>                   |  |  |  |
| Revenues  | - 0 -  | - 0 -  | - 0 -  |
| Expenditures  | Potential Minimal Increase                                       | Potential Minimal Increase                                       | Potential Minimal Increase                                       |
| <b>School Districts and Other Local Governments</b> |  |  |  |
| Revenues  | Potential Loss of Delinquent Tax Revenue                         | Potential Loss of Delinquent Tax Revenue                         | Potential Loss of Delinquent Tax Revenue                         |
| Expenditures  | - 0 -  | Potential decrease from tax exemption notifications              | Potential decrease from tax exemption notifications              |

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- In the years after the current biennium, the venture capital tax credits will reduce revenues to local government funds. The Local Government Fund (LGF) receives 4.2 percent of corporate franchise and personal income taxes. The Local Government Revenue Assistance Fund (LGRAF) receives 0.6 percent of both state taxes. The Library and Local Government Support Fund (LLGSF) receives 5.7 percent of the state personal income tax.
- *The modifications to the job retention tax credit will* decrease corporate franchise tax revenues to the Local Government Fund (LGF) and Local Government Revenue Assistance Fund (LGRAF). LGF receives 4.2 percent and LGRAF 0.6 percent of corporate franchise tax revenues.
- The bill requires County Auditors to send notices to the various taxing authorities that would be affected by potential tax exemptions. This would have a minimal cost for county auditors' offices.
- The notices required by the bill will allow school districts and local governments to better budget their tax revenue and plan for potential repayment. The notification may also allow local taxing authorities to file an objection to the exemption before the exemption is final.
- Under the bill, tax bills will be reduced to reflect the findings of the BTA, however no refunds or credits will be issued as a result of the valuation complaints. Thus, the only potential loss of revenue is the "disputed taxes" that have not been paid, which would currently be noted as delinquent.
- The bill proposes to allow certain real property taxpayers to file a complaint with Board of Tax Appeals. When a taxpayer files such a complaint they must notify the county board of revision (BOR) in which the original complaint was filed. The BOR is responsible for notifying any person that was party to the original complaint. This could cause a minimal increase for certain county BORs.
- The bill prohibits municipalities from taxing distributions from S corporations to their shareholders. Some municipal corporations will lose an undetermined amount of revenues from this provision.

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## ***Detailed Fiscal Analysis***

### ***The Ohio Venture Capital Program***

S.B. 180 creates the Ohio Venture Capital Authority (OVCA) and the Ohio Venture Capital Fund (OVCF) in the state treasury. The nine-member OVCA will implement lending and investment policies designed to advance entrepreneurship in Ohio through the Ohio Venture Capital Program (OVCP) and a designated private for-profit investment fund, which will become the Ohio Venture Capital Program's administrator. OVCA may choose up to two program administrators for its program fund. OVCA members serve without compensation, but will receive necessary expenses associated with their appointment. Seven of the members will be appointed by the Governor with the advice and consent of the Senate. The Director of Development and the Tax Commissioner will be the other members of the OVCA.

The Ohio venture capital program investment fund will borrow from investors to make loans and investments in venture capital funds for seed funding and other private ventures, primarily in Ohio. The bill requires the program administrator to provide at least 1 percent of the amount of outstanding loans to the program fund and receive a pro-rata share of net income or loss. However, the program administrator (or the fund manager employed by the program administrator) is not entitled to the security against losses. The bill specifies that 75 percent of the program fund must be invested in private for-profit venture capital funds with head offices in Ohio. Also, at least 50 percent of the program funds in any venture capital fund must be invested in Ohio-based enterprises. The bill allows the program administrator to invest in venture capital funds of funds. The bill also limits the amount of program fund money that may be invested in a single venture capital fund (or in a multitude of venture capital funds operating under the same management leadership) to \$10 million. Investor (lender) losses are incurred when the program administrator is unable to timely repay a lender.

If revenues in the OVCF are insufficient, the Ohio Venture Capital Authority may grant refundable and nonrefundable personal income, corporate franchise or insurance premium tax credits to those investors that incur losses. The bill allows investors (lenders) to elect to receive either a refundable tax credit or a nonrefundable tax credit. If a lender elects a refundable tax credit, the amount refunded would be 75 percent of the amount by which the tax credit exceeds the taxpayer's tax liability. If a lender elects a nonrefundable credit, the amount of the credit would not exceed the taxpayer's tax liability. This election, once made, is irrevocable. OVCA will enter into written contracts with investors specifying conditions and loss amounts that would require the issuance of tax credits. Furthermore, OVCA will establish terms and conditions under which the Authority will extend those guarantees against losses and other measures to ensure the safety and soundness of investments under the Ohio Venture Capital Program. Tax credits granted by OVCA cannot exceed the amount of established losses incurred by investors.

The bill authorizes the issuance of refundable and nonrefundable personal income, corporate franchise, domestic insurance and foreign insurance tax credits that may be granted by OVCA to

investors in the Ohio Venture Capital Program. OVCA cannot grant more than \$20.0 million in tax credits in any one fiscal year. The tax credits may not be carried forward and are not transferable. ***Actual state revenue loss will depend on the amount of tax credits granted by the Authority and claims against the various taxes by investors. The Authority will not grant any credit that may be claimed in the first four years of the Ohio Venture Capital Program.***

Assuming that initial investments in seed and venture capital enterprises under the OVCP commence in FY 2004, state revenue loss from the tax credits may potentially begin in fiscal year 2009, if program revenues in the OVCF were insufficient to cover investors' losses. Ultimately, state revenue loss will depend on the success or failure of investments made under the OVCP. Seed and venture capital enterprises (particularly in "high technology") may yield high dividends but also may have a high risk of failure. If the investments are successful, the OVCF will receive at least 90 percent of "excess" revenues generated by the program administrator. "Excess" revenues are amounts by which the program fund revenues from various investments exceed the amounts required to pay principal or interest to lenders, the profit share of the program administrator, and administrative expenses incurred by the program administrator. If seed and venture capital enterprises funded under the Ohio Venture Capital Program are highly successful, there might be no need for the issuance of tax credits by the Ohio Venture Capital Authority. **However, the bill is silent on the total amount of authorized tax credits that may be issued under the Ohio Venture Capital Program. Thus, the potential total program cost cannot be determined.** Tax credits under the Ohio Venture Capital Program may not be claimed after June 30, 2026.

Potential state revenue loss may be up to \$20 million per year depending on the success or failure of investments made under the OVCP and the amount of tax credits granted and claimed. The General Revenue Fund (GRF) revenue loss may be up to \$19.0 million each year. The GRF receives 95.2 percent of the corporate franchise tax, 89.5 percent of the personal income tax, and 100 percent of the insurance taxes. The Local Government Fund (LGF) receives 4.2 percent of the corporate franchise and personal income taxes. The Local Government Revenue Assistance Fund (LGRAF) receives 0.6 percent of corporate franchise and personal income taxes. Revenue losses to LGF and LGRAF may be up to \$0.8 million and \$0.2 million, respectively.

The bill directs the Department of Development to provide the Ohio Venture Capital Authority with space and such technical assistance as required by the Authority. According to the Department of Development, this assistance will increase yearly expenditures by about \$90,000 starting in FY2004.

### ***Notification of pending pollution control property tax exemptions***

Under existing law tangible property that reduces or eliminates air, noise, or water pollution is exempt from taxation. For such property to be exempted, the property owner must apply for and obtain a pollution control exemption certificate. In the case of property used for air or noise pollution control, the application must be filed with the Tax Commissioner; in the case of property used for water pollution control, the application must be filed with the Director of Environmental Protection. These officials then investigate and determine whether the property qualifies for a tax exemption. This process can sometimes be lengthy. However, regardless of when the determination is made, the tax exemption relates back to the date when the application was filed (in the case of air and noise pollution control

property) or the date when the owner acquired the property or began building it (in the case of a water pollution control property). If, in the meantime, property taxes were paid for the property, the taxes must be refunded, with interest, by the various taxing authorities where the property is located.

The bill prescribes a procedure for notifying affected taxing authorities that an application for a tax exemption for a pollution control facility has been filed<sup>1</sup>. Generally, the notices serve to provide advance notification of the possible effects of the exemption if it is granted--particularly the potential for refunds. The procedure is initiated when an application for an exemption is filed. In the case of air and noise pollution control property, the Tax Commissioner, as soon as it is practicable to do so, must provide a copy of the application and any accompanying documents to the county auditor of the county where the facility is (or will be) located. The Commissioner must include a statement showing the estimated taxable value of the facility and the estimated taxes that would be charged on the facility if the facility were to be taxed in the year in which the application is received. In the case of water pollution control property, the Director of Environmental Protection initiates the procedure by forwarding a copy of the application to the Tax Commissioner. As soon as it is practicable to do so, the Tax Commissioner must forward the application and any accompanying documents to the county auditor of the county where the facility is (or will be) located. The Commissioner must include a statement showing the estimated taxable value of the facility, and the estimated taxes that would be charged on the facility if the facility were to be taxed in the year in which the application is received.

Within 60 days after receiving the statement from the Tax Commissioner, the county auditor must send notices to the various taxing authorities that would be affected by the tax exemption. The notices must state the following:

- That a pollution control exemption application has been filed;
- The estimated assessed value of the property;
- The annual taxes on the property (computed on the basis of current tax rates);
- That approval of the application will exempt the property from taxation and may require the taxing authority to refund taxes already paid for the property after the certificate becomes effective.

These statements and notices must be issued with respect to exemption certificate applications filed on or after the bill's effective date, and with respect to any applications received before the bill's effective date if the exemption certificate has not been issued before January 1, 2004.

If, after the original statement is issued, the estimate of the assessed value changes by 10 percent or greater, the Tax Commissioner must issue an amended notice reflecting the changes.

The bill places additional responsibilities on the Ohio Environmental Protection Agency, the Department of Taxation, and county auditors' offices. The Ohio EPA estimates this will have a minimal or no fiscal impact on the agency. The Department of Taxation estimates a 5 percent increase in expenditures related to pollution control tax exemption applications. Currently, the Department spends

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<sup>1</sup> As used in this section, "facility" means an air pollution control facility, noise pollution control facility, energy conversion facility, thermal efficiency improvements facility, or solid waste energy conversion facility as defined in section 5709.20 or 5709.45 of the Revised Code.

approximately \$75,000 a year on the Pollution Control Tax Exemption Program, thus under the bill, expenditures on the program will increase by approximately \$3,750 ( $\$75,000 \times 5\% = \$3,750$ ). County auditors' office would also incur additional minimal costs associated with issuing notices to the various taxing authorities affected by potential tax exemptions.

The bill has the potential to save school districts and other local governments money. The application process for tax exemptions on pollution control facilities can often span a number of years. In some cases property taxes are paid on the property to be exempted during the years the application is being considered.<sup>2</sup> If this is the case and the exemption is granted, school districts and local governments that received the tax revenue for the years during the application process are then required to refund the taxes with interest. While the amount of tax revenue created by the pollution controls vary greatly by industry and project, there is potential for the refunds to be in excess of \$1 million. By making these local governments aware of the potential exemptions and refunds through the notification process, local taxing authorities can better budget their tax revenue and plan for potential repayment. The notification may also allow local taxing authorities to file an objection to the exemption before the exemption is final.

### ***Filing of complaints with the Board of Tax Appeals***

The bill proposes to allow certain real property taxpayers to re-file a complaint with the Board of Tax Appeals (BTA). To qualify taxpayers must meet the following three criteria: (1) the taxpayer disputes the valuation or assessment of commercial real property, (2) The complaint must previously have been made, but dismissed for lack of jurisdiction, (3) The taxpayer must not yet have paid the full taxes due on the property that relate to the complaint. Under the bill, the complaint could be filed for any tax year mentioned in the original complaint that occurred within one sexennial reappraisal period within the last 10 years. The taxpayer will have six months to file the complaint. Under the bill, when a qualifying taxpayer files a complaint he or she must also file a notice of the complaint with the county board of revision with which the original complaint was filed. When the county board of revision receives the notice, it must notify any person that was a party to any proceeding on the original complaint conducted by the board of revision, and file proof of such notices with the BTA. The taxpayer will have six months to file the complaint.

If the BTA finds the amount of taxes charged for the years to be in excess of the amount due, the county auditor will not be allowed to refund the overpayment of taxes, nor will the auditor be allowed to issue credit for the overpayment. The county must only adjust the amount of taxes shown to be due on the tax list. Thus, if a taxpayer has only paid the "undisputed" portion of their property taxes, the disputed taxes, which would currently be designated as "delinquent taxes", would no longer be due. The BTA estimates few taxpayers would be eligible to re-file complaints under the bill, and believes they will incur only a minimal increase in costs due to the bill. However, because the exact cases are not known, LSC is unable to estimate the amount of delinquent property taxes that could potentially be forgone if the boards of revision would adjust property assessments.

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<sup>2</sup> All tangible personal property that is not yet functional is exempt from taxation. Thus, while the pollution controls are being built or installed, they are exempt from taxation. The property only becomes taxable when it is able to function.

### ***Municipal Taxation of Distributions From S Corporations***

Generally, municipal corporations that have a business profits tax impose the tax both on regular corporations and on S corporations. Some municipal corporations currently tax distributive shares of net income from S corporations under their personal income tax ordinances. Other municipal corporations do not. LSC is unable to determine which municipal corporations out of the approximately 560 municipalities statewide are currently imposing a tax on S corporation shareholder distributions. The bill prohibits municipal corporations that impose a municipal income tax from taxing distributions of net profits to shareholders of S corporations. Thus, those municipalities that tax shareholder distributions from S corporations will lose an undetermined amount of personal income tax revenues as a result of S.B. 180. To the extent that S.B. 180 prompts some S corporations located in municipalities to distribute all of their operating profits, those cities might also lose revenues under their business profits tax.

### ***Modifications to the Job Retention Tax Credit***

The bill substantially modifies the job retention tax credit (Am. Sub H.B. 405). In addition to manufacturing companies that invest in new plants and equipment, the bill extends eligibility to companies that invest in research and development, or provide “significant corporate administrative functions.” The bill decreases the minimum amount of investment to \$100 million over a three-year period (currently the minimum investment is \$200 million) for firms where the average wage of employment positions is greater than 400 percent of the federal minimum wage. H.B. 405 limited the tax credit to manufacturing operations and required that investments be made to facilities within a five-mile radius. The bill increases this requirement to 15 miles. Also, the bill specifies the repayment of tax credits for companies that fail to satisfy their commitments and allows companies to renegotiate the amount or term of the tax credit.

Credits are granted for investments made from January 1, 2002 through December 31, 2006. Although it is not possible to predict the number or size of projects qualifying for this credit in the future, LSC assumes that a small number of companies will become eligible annually due to the modifications made to the job retention credit (possibly two or three businesses annually) and that the majority of claims will be against the corporate franchise tax (although a small amount may be claimed against the personal income tax). The annual total number of eligible employees would be highly variable due to the wide range in employment. The maximum job retention tax credit is equal to 75 percent of the Ohio income tax withheld from the employees of the eligible business occupying full-time employment positions at the project site. Assuming the maximum credit of 75 percent of payroll, if an additional 3,000 workers were eligible for this credit, the cost of this credit would be approximately \$3.5 million. However, this tax credit is nonrefundable. Assuming that only 75 percent of the tax credits will be claimed, state revenue loss would be up to \$2.6 million in FY 2004 (FY 2004 would be the first year the job retention tax credit affects revenues). Each year an additional \$2.6 million in credits may be claimed. Thus, estimated revenue loss from the modifications to the job retention tax credit would be \$5.2 million in FY 2005, \$7.8 million in FY 2006, \$10.4 million in FY 2007 and following years. GRF revenue loss (at 95.2 percent of state revenue) would be \$2.5 million and \$5.0 million in FY 2004 and FY 2005, respectively. Again, assuming that most recipients of the tax credits are corporations, local

government fund revenue loss (at 4.2 percent of state franchise tax revenue to the LGF and 0.6 percent to the LGRAF) would be \$0.1 million in FY 2004 and \$0.2 million in FY 2005.

This amount of revenue loss would be in addition to the \$4.4 million in state revenue loss LSC had estimated for Am. Sub. H.B. 405. Thus, revenue loss from the job retention tax credit would be \$6.9 million in FY 2004. Similarly, total revenue loss for the ensuing years would be \$13.8 million in FY 2005, \$20.7 million in FY 2006, and \$27.6 million in FY 2007 and remain at that level for the next several years.

*LSC fiscal staff: Jean J. Botomogno, Economist  
Nickie Evans, Economist*

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# Fiscal Note & Local Impact Statement

124<sup>th</sup> General Assembly of Ohio

Ohio Legislative Service Commission  
77 South High Street, 9<sup>th</sup> Floor, Columbus, OH 43215-6136 ✧ Phone: (614) 466-3615  
✧ Internet Web Site: <http://www.lsc.state.oh.us/>

BILL: **Am. Sub. S.B. 223** DATE: **November 14, 2002**  
STATUS: **As Enacted – Effective March 14, 2003** SPONSOR: **Sen. Wachtmann**  
LOCAL IMPACT STATEMENT REQUIRED: **Yes**  
CONTENTS: **Requires payment, under Workers' Compensation Law, for the costs of medical diagnostic tests for on or off-duty police, fire and emergency first responders that have come into contact with the body fluid of another person**

## State Fiscal Highlights

| STATE FUND                             | FY 2003            | FY 2004            | FUTURE YEARS       |
|--|--------------------|--------------------|--------------------|
| <b>State Insurance Fund</b>            |                    |                    |                    |
| Revenues                               | Potential increase | Potential increase | Potential increase |
| Expenditures                           | Potential increase | Potential increase | Potential increase |
| <b>GRF and other state funds</b>       |                    |                    |                    |
| Revenues                               | - 0 -              | - 0 -              | - 0 -              |
| Expenditures                           | Potential increase | Potential increase | Potential increase |
| <b>State universities and colleges</b> |                    |                    |                    |
| Revenues                               | - 0 -              | - 0 -              | - 0 -              |
| Expenditures                           | Potential increase | Potential increase | Potential increase |

Note: The state fiscal year is July 1 through June 30. For example, FY 2003 is July 1, 2002 – June 30, 2003.

- Although this change should result in relatively few additional cases and relatively small additional health care costs, additional costs could result for the State Insurance Fund. If large enough, these costs could affect premiums and therefore, revenues to the fund.
- State agencies could incur higher worker's compensation costs. The number of cases where these tests would be required is unknown. However, such costs would be computed in calculating state agency experience ratings and premium payments.
- The terms of the bill also apply to universities (but not the hospitals affiliated with them), which may self-insure. Paying for diagnostic tests would raise their workers' compensation costs, if they have any cases.
- The bill also changes the law to allow the administrator of workers' compensation to give cash refunds or premium reductions to fund members, regardless of when the premiums are due. Currently, the Bureau of Workers' Compensation may only give premium reductions for future premiums. Because the Bureau already has the power



to give reductions, this provision would not increase or decrease state spending. However, it would provide the administrator more flexibility in the timing of these refunds and reductions.

## ***Local Fiscal Highlights***

| LOCAL GOVERNMENT              | FY 2003            | FY 2004            | FUTURE YEARS       |
|-------------------------------|--------------------|--------------------|--------------------|
| <b>Political subdivisions</b> |                    |                    |                    |
| Revenues                      | - 0 -              | - 0 -              | - 0 -              |
| Expenditures                  | Potential increase | Potential increase | Potential increase |

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- The definitional change could result in additional cases and additional health care costs. It is possible, though unlikely, that additional cases would require a premium increase for the job descriptions covered by the bill, thereby increasing workers' compensation costs to political subdivisions. The primary political subdivisions affected would be counties, cities, villages, and townships.
- The terms of the bill also apply to self-insured public employers. There are no local public employers that yet qualify for self-insured status; however, future public employers who qualify for self-insurance will be required to pay for these tests. Paying for diagnostic tests would raise their workers' compensation costs in the future, if they have any cases.

## ***Detailed Fiscal Analysis***

The bill requires that the cost of medical diagnostic tests be paid for when on or off-duty members of police and fire departments and emergency medical workers come into contact with bodily fluids during their work. Although BWC handles about 50-100 such claims per year, it is not known how many instances of contact with bodily fluid would be reported to the Bureau as a result of this bill.

The bill applies to public employers that make premium payments to the State Insurance Fund, and to self-insuring public employers. On the state level, only state universities, not including affiliated hospitals, may qualify for self-insurance. Although political subdivisions can apply for self-insurance, none has met the qualification requirements.

Although there are only between 50-100 such cases a year, the cost of providing these tests could increase future premium payments required for those state and local employers, whether insured by the State Insurance Fund or self-insured. According to the Bureau, testing costs range from \$300-\$1,200 per individual. Thus, total annual costs could range from \$15,000 to \$120,000.

*LSC fiscal staff: Sean S. Fouts, Budget Analyst  
Nelson D. Fox, Senior Budget Analyst*

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# Fiscal Note & Local Impact Statement

## 124<sup>th</sup> General Assembly of Ohio

Ohio Legislative Service Commission  
77 South High Street, 9<sup>th</sup> Floor, Columbus, OH 43215-6136 ✧ Phone: (614) 466-3615  
✧ Internet Web Site: <http://www.lsc.state.oh.us/>

BILL: **Am. Sub. S.B. 255** DATE: **June 19, 2002**  
STATUS: **As Enacted – Effective July 2, 2002** SPONSOR: **Sen. Blessing Jr.**  
(Certain sections effective September 30, 2002)

LOCAL IMPACT STATEMENT REQUIRED: **Yes**

CONTENTS: **Revises the provisions on the use of public right-of-ways by utility service providers and cable operators and makes other changes**

### State Fiscal Highlights

| STATE FUND   | FY 2003            | FY 2004            | FUTURE YEARS       |
|--|--------------------|--------------------|--------------------|
| <b>Utility and Railroad Regulation Fund (Fund 5F6)</b> |                    |                    |                    |
| Revenues   | - 0 -              | - 0 -              | - 0 -              |
| Expenditures   | Potential increase | Potential increase | Potential increase |

Note: The state fiscal year is July 1 through June 30. For example, FY 2003 is July 1, 2002 – June 30, 2003.

- There would be a minimal increase in Utility and Railroad Regulation Fund revenue and expenditures due to an increase in Public Utilities Commission of Ohio's (PUCO) authority.

### Local Fiscal Highlights

| LOCAL GOVERNMENT                            | FY 2002            | FY 2003            | FUTURE YEARS       |
|---|--------------------|--------------------|--------------------|
| <b>Counties and other local governments</b> |                    |                    |                    |
| Revenues                                    | (See bullet below) | (See bullet below) | (See bullet below) |
| Expenditures                                | Potential increase | Potential increase | Potential increase |

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- Assuming existing statutes regarding general use of the public way enacted by HB 215 of the 123<sup>rd</sup> General Assembly are constitutional, there could be an increase in county and local government revenues from fees for use of public right of ways.
- Assuming existing statutes regarding general use of the public way enacted by HB 215 of the 123<sup>rd</sup> General Assembly are unconstitutional, there would be a decrease in county and local government revenues from fees for use of public right of ways.



- There would be an increase in township revenues due to an increase in the permit application fee for township highway right of way excavation.
  - While cable companies would be subject to the right of ways fees, they would receive an offset for them against franchise fees charged by municipalities. This provision is revenue neutral since federal law limits the fees that municipalities may charge cable companies.
  - There would be an increase in local government expenditures to manage public right of ways. Municipalities may also incur additional legal costs if they are required to appear before the Public Utilities Commission (PUCO) to justify the fees charged for use of the public right of ways.
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## Detailed Fiscal Analysis

The bill proposes to revise the statute governing the use of the public ways. It would include pipeline companies in the definition of utility companies for this purpose. The bill would increase the permit application fee from \$2 to \$50 for township highway right of way excavation. It establishes criteria for fees charged by municipalities to utilities and cable companies for the use of public right of ways. This bill would have a fiscal impact on local governments and on the Public Utilities Commission (PUCO).

The bill would limit the fees for use of public right of ways to the cost that municipalities “actually incurred and can clearly demonstrate” or that “can be properly allocated and assigned for occupancy or use of public ways.” None of the public right of way fees could include a return on or exceed the actual cost incurred by the local governments. Furthermore, the fees imposed by the local government for the use of public right of ways may be exempted to the government entity and charitable organizations. Local governments would also need to credit or offset the retail value of any non-monetary or free service given by the cable operator as part of the franchise fee. Under the bill, local governments are also required to establish and maintain a special fund for all such fees collected and file any public way ordinance with the PUCO within 45 days after it is enacted.

In addition, the bill provides a mechanism for utilities in certain circumstances to recover the cost of the fees in their rates by applying to the Public Utilities Commission (PUCO). This could increase utility rates of the companies affected by the right of way charges. In addition, the bill specifies that only the customers of a public utility that receive its service within the municipality charging the right of way fee are to be charged in the recovery of an unjustified public way fee.

The bill gives utilities the ability to appeal fees established by municipal corporations to PUCO. If PUCO finds that the fees are unreasonable, PUCO could suspend the public ways fees not only for the utility that filed the complaint but for all other utilities paying the fees. The municipality could later recover the lost fees only if the PUCO found that the fee was not unreasonable. The bill would increase PUCO expenditures due to the additional authority to coordinate the public right of ways fees.

Furthermore, the bill would increase the township highway or highway right-of-way excavation permit application fee from \$2 to \$50 for any new excavation project. The definition of project includes projects that consist of six or more of electric or telecommunications service poles. No fee will be assessed to any new project of less than five or fewer poles or any excavation project to repair, rehabilitate or replace an electric or telecommunications service pole that already been installed. The fee will be returned if the application is denied. In addition, a notice must be given to the township clerk at least three business-day prior to the date of the excavation. This would increase the township revenues due to the increase in the permit application fee for township highway and highway right of way excavation.

The bill declares an emergency.

*LSC fiscal staff: Ruhaiza Ridzwan, Economist*

*SB0255EN/lb*

# APPENDIX

## **All House Bills Passed in 2002 that Became Law**

| House Bill | LIS      | Subject   |
|------------|----------|---|
| 8          | No       | Expands the definition of "material" in the Sex Offense Laws to include certain images, creates exemptions and an affirmative defense to certain offenses under those laws, and creates an additional term for the drug court judge of the Hamilton County Court of Common Pleas  |
| 17         | No       | Generally prohibits an underage person from being under the influence of beer or intoxicating liquor, revises the prohibitions regarding an underage person ordering, paying for, sharing the cost of, attempting to purchase, or consuming or possessing beer or intoxicating liquor, and provides a diversion program for persons charged with violating these prohibitions   |
| 38         | No       | Requires the provision of independent living services and work force development services and activities for certain children and young adults so they may become independent adults and authorizes the Director of Job and Family Services to seek an amendment to the state's Medicaid plan to expand eligibility   |
| 48         | No       | Establish "School Bus Driver Appreciation Day"  |
| 65         | Yes      | Exempts from taxation property held or occupied by veterans' organizations that qualify for income tax exemption under the Internal Revenue Code.   |
| 70         | Yes > No | To include appurtenances to roads and bridges to enhance the safety of animal-drawn vehicles, pedestrians, and bicycles in the types of projects for which local subdivisions may receive financial assistance through the Ohio Public Works Commission   |
| 122        | No       | To name the viaduct spanning the Ashtabula River on US Route 20 the "Reverend Dr. Sam Wells, Jr., Memorial Viaduct" and to name a bridge on a portion of State Route 7 the "Judge Kenneth B. Ater Bridge"   |
| 123        | No       | To increase to \$500 the maximum amount of annual appropriation a veterans' organization may receive from a board of county commissioners for Memorial Day expenses and to change the application period for those grant moneys   |
| 129        | No       | Permits county budget commissions to waive the requirement that local governments adopt annual tax budgets and makes other changes related to local government budgets.   |
| 130        | No       | Requires a mandatory prison term be imposed for discharging a firearm at a peace officer or a corrections officer and permits a commitment to the Department of Youth Services for a juvenile discharging a firearm at a peace officer or a corrections officer   |
| 149        | No       | To designate State Route 2, within Erie County only, as the "Jackie Mayer Miss America Highway"   |
| 150        | No > Yes | Require a hearing screening for each newborn born in a hospital   |
| 170        | No       | Makes changes relative to health care services provided to offenders who are in the custody or under the supervision of the Department of Rehabilitation and Correction, revises the procedures by which costs related to a prisoner's confinement in a local detention facility are collected and consolidates the provisions containing those procedures, and increases from \$30 to \$50 the daily fine credit given to an offender jailed for failure to pay a fine |
| 180        | No       | Permits confinement of a child who is a danger or threat to others and who is not a status offender and generally requires the adjudicatory hearing for a confined child to be held within 15 days after the complaint is filed   |
| 188        | No       | Changes licensing and registration requirements for certain peace officers and decreases the civil penalty for violations of Revised Code sections relative to peace officer duties   |

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| 198 | Yes      | Requires delinquent property tax collections to be distributed among taxing districts in proportion to current tax rates, rather than the rates in effect while the taxes were outstanding and makes slight changes regarding county auditor's tax valuation certifications   |
| 206 | No       | To designate a portion of State Route 7 in Jefferson County as the "Bill Mazerowski Highway"  |
| 214 | No       | Revises licensing program for landscape architects  |
| 221 | Yes > No | Establish a drug repository program for the collection and redistribution of prescription drugs that are in their original unopened packaging   |
| 242 | No       | Uniform Simultaneous Death Act  |
| 247 | No       | Ensures that prior delinquent child adjudication and disposition records are available for use in preparing presentence investigation reports for persons convicted of a criminal offense   |
| 248 | No       | Revisions to lead poisoning prevention and the Children's Trust Fund  |
| 256 | No       | Designates a portion of Interstate Route 280 and portions of U.S. Route 36 as the "Korean War Veterans' Memorial Highway"   |
| 271 | No       | Authorizes courts to impose periods of community service upon offenders who fail to pay judgments for court costs relating to the criminal action with a credit upon the judgment at the minimum wage rate per hour of service  |
| 273 | No       | Expands the definition of "harmful intoxicants" to include the chemicals gamma butyrolactone and 1,4 butanediol   |
| 278 | No       | Permits directors of Ohio corporations to make specific, limited changes to the articles of incorporation, and requires a corporation to send written notice to its shareholders of the incorporation changes made  |
| 301 | No       | Prohibits the charging of interest on recoupments of erroneously distributed estate tax revenue and provides a procedure for converting certain municipal permanent property tax levies to five-year levies, subject to voter approval.   |
| 309 | No       | Revises the elements of and the penalty for taking the identity of another and renames the offense as identity fraud, permits a discharged member of the armed forces to expunge specified items from the county recorder's record of discharge and other service-related documents, and requires a county recorder to post a notice stating that anything filed in the recorder's office is a public record  |
| 312 | No       | Prohibits a telephone solicitor from blocking by any means the disclosure of the telephone number from which a telephone solicitation is made and provides for enforcement for some telephone solicitors under the telemarketing fraud law and for enforcement for all telephone solicitors under the law governing consumer sales practices  |
| 313 | No       | Designates the first Tuesday of the first full week in May as "Teacher Appreciation Day"  |
| 319 | No       | To establish the Emergency Management Assistance Compact and enter into it with other jurisdictions legally joining in it, and to declare an emergency  |
| 322 | No       | Establishes civil immunity in connection with the movement of a funeral procession and allows the use of orange and white pennants on vehicles in a funeral procession  |
| 326 | No       | Grants full-time state employees up to 30 days of paid leave for organ donation and up to 7 days paid leave for bone marrow donation  |
| 327 | No > Yes | Clarifies certain provisions of the Felony Sentencing Law, corrects the penalty provisions for illegal processing of drug documents, clarifies the eligibility criteria for intervention in lieu of conviction, requires applicants for nurse licensure and dialysis technician certification to have a criminal records check, expands the offense of unauthorized use of property to specifically include nonconsensual access to a cable service or cable system, revises certain provisions of the law governing nurses and dialysis technicians as to licensing or certification, duties, and training, specifies that the members of the Ohio |

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|     |     | Council for Interstate Adult Supervision serve without compensation but are to be reimbursed for expenses, and extends until July 1, 2002, the date by which the State Criminal Sentencing Commission must recommend changes to the state's criminal forfeiture laws  |
| 329 | Yes | Allows local government funds under certain circumstances to be distributed under an alternative apportionment scheme without the approval of the largest city in the county  |
| 330 | No  | Changes the population quota restrictions for agency stores that sell spirituous liquor, and allows airports that are operated by port authorities to apply for a D-5d liquor permit  |
| 337 | No  | Makes changes to engineer and surveyor licensing law  |
| 338 | No  | To authorize referendums on assessments levied for improvements of soil and water conservation districts to be conducted under the statutes governing counties rather than under the statutes governing conservation districts, and to require that property owners be notified of uniform assessments under those statutes by first class mail in lieu of notification by publication  |
| 344 | No  | Creates the Historical Boiler Licensing Board, establishes licensing requirements for operators of historical boilers, and establishes inspection and certification requirements for historical boilers   |
| 345 | No  | Makes numerous changes to probate and fiduciary law   |
| 349 | No  | Modifies the Uniform Partnership and Limited Partnership Laws, provides a framework and requirements for mergers and consolidations of partnerships, and clarifies duties of general partners of partnerships.  |
| 355 | No  | Modifies the administrative procedures for inmate transport or transfer to psychiatric hospitals  |
| 364 | Yes | Expands community school law.   |
| 365 | No  | Authorizes the Auditor to declare a fiscal watch when the projected fiscal year-end deficit of a local government exceeds one-twelfth of its general fund revenue from the preceding fiscal year  |
| 366 | No  | County and township road access management regulations  |
| 371 | No  | Revises the definition of beer, exempts effects of local option elections at public golf courses, and makes other changes to the Liquor Control Law   |
| 373 | No  | Revises the law governing the State Highway Patrol Retirement System  |
| 374 | No  | Provides for the licensure of independent marriage and family therapists and marriage and family therapists   |
| 384 | Yes | To require public and nonpublic schools to have an employee trained in the performance of the Heimlich maneuver present during periods of food service to students, and limits the liability of nonpublic school employees.   |
| 385 | No  | Release of appropriations from the Clean Ohio Conservation Fund upon Public Works Commission presentation to the Director of Budget and Management, create the Clean Ohio Revitalization Revolving Loan Fund, provide that the director of the Department of Agriculture is a co-holder of and may share in enforcing local Clean Ohio Agricultural Easement Fund easements, removes prohibition against allocating money from the Clean Ohio Conservation Fund for recreational trails, and provides funds for various purposes through transfers. |
| 386 | No  | States the intent of the General Assembly on the relationship of state and local laws regarding the regulation of loans and other forms of credit, conforms Ohio law with the Federal HOEPA Law, makes appropriations, and forms a Predatory Lending Study Committee  |
| 390 | No  | Extends the time within which taxpayers may file complaints against real property taxes, extends the time within which members of the National Guard and reservists who are called into active duty must pay real property taxes, makes technical changes to the  |

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|     |     | calculation of the local government fund freeze, and declares an emergency.  |
| 393 | No  | Revises the Juvenile Delinquency Law, revises the Sex Offender Registration and Notification Law as it applies to delinquent children, and revises the duties of the Muskingum County domestic relations judge to be elected in 2002   |
| 394 | No  | To permit the board of education of a school district to provide for a moment of silence each day for prayer, reflection, or meditation upon a moral, philosophical or patriotic theme. To permit school boards of education to set aside a period each day for the voluntary oral recitation of the Pledge of Allegiance to the Flag.   |
| 396 | No  | Attorney General's authority to compromise taxes and other amounts due to the state  |
| 400 | No  | Specifically permits the confinement of adjudicated delinquent children in a juvenile detention facility and the confinement of a person under a disposition imposed for a delinquent child or juvenile traffic offender disposition, after the person attains 18 years of age, in a facility other than one for juveniles, and revises the formula for calculating the per diem cost for the care and custody of felony delinquents   |
| 402 | No  | To require the electronic filing of age and schooling certificates and, for nonpublic schools, allows the chief administrative officer of a nonpublic school to issue age and school certificates in addition to the superintendent of the school district.  |
| 406 | No  | Authorizes the Secretary of State to distribute specific documents in an electronic format   |
| 407 | No  | Require certain driver education courses to include thirty minutes of instruction relating to anatomical gifts and anatomical procedures and establishes the month of March as "Eye Donor Month."  |
| 409 | No  | To designate State Route 571 within Miami County as the "Robert E. Netzley Highway"  |
| 411 | No  | Increases the penalties for inducing panic and making false alarms involving a purported, threatened, or actual use of a weapon of mass destruction and prohibits unlawful possession or use of a hoax weapon of mass destruction  |
| 412 | No  | Amends the Revised Code relative to the results of a home inspection or nursing facility survey, liability of a residential care facility or a home for punitive damages, and to the statute of limitations for medical claims   |
| 415 | No  | Revises law governing the State Board of Cosmetology   |
| 416 | Yes | Provides property tax exemptions for certain retirement homes, nursing homes, and independent living facilities belonging to a tax-exempt organization.  |
| 421 | No  | Amends Revised Code sections relative to insurance policies that are issued, sold, or assigned for the purpose of purchasing funeral or burial goods or services, the Standard Nonforfeiture Law for Individual Deferred Annuities, and acquisitions conducted under the Holding Company Systems Law   |
| 424 | No  | To grant the Director of Job and Family Services authority to seek injunctive relief to enjoin the operation of a facility that cares for children without a certificate and to increase the penalty for violations  |
| 425 | No  | Generally prohibits the sale of motor vehicle fuel containing methyl tertiary butyl ether (MTBE) in certain quantities and authorizes the Department of Natural Resources to specify minimum distances for the location of oil and gas well facilities from bodies of water  |
| 426 | Yes | Modifies appraisal requirements for state agencies and political subdivisions making real property acquisitions from private owners  |
| 427 | No  | Expands the offenses for which DNA specimens are collected from delinquent children and criminal offenders, delays the implementation of the expansion of DNA specimen collection until the Superintendent of the Bureau of Criminal Identification and Investigation gives official notification that the state DNA laboratory is prepared to accept DNA specimens of that nature, pays the costs of DNA specimen collection regarding the added offenses from the Reparations Fund, removes the requirement that DNA specimens |

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|     |     | be collected by specified medical practitioners in certain cases, expands the circumstances in which a person returning to incarceration must submit to a DNA specimen collection procedure to include misdemeanants covered by the DNA Specimen Collection Law who are on probation, provides that service as an investigator of the Bureau of Criminal Identification and Investigation counts as peace officer service for purposes of maintaining a current and valid peace officer basic training certificate and subjects that person to other peace officer training-related laws, and includes as peace officers, for certain purposes, investigators of the Bureau who have received such a certificate and who are assisting law enforcement officers |
| 428 | No  | Changes in the laws governing elevators, boilers, bedding, and stuffed toys   |
| 442 | No  | Prohibits, in specified circumstances, the discharge of a firearm within 1,000 feet of any school or of the boundaries of any school premises   |
| 445 | No  | Requires the Ohio Ballot Board or designees to prepare and file arguments to each constitutional amendment, law proposed by initiative petition, and law, subject to referendum petition if persons designated to prepare the arguments fail to do so; delays the date by which the mandatory electronic filing of campaign finance statements must be made to the Secretary of State, for General Assembly candidates; and declares an emergency   |
| 454 | No  | Increases from \$1,000 to \$3,000, the dollar amount below which the fiscal officer of a political subdivision (taxing unit) other than a county may approve expenditures made without a certificate of available funds   |
| 455 | No  | To revise certain provisions of the law governing agricultural commodity marketing programs, and to authorize the Director of Agriculture to award grants for the purpose of promoting agriculture  |
| 458 | No  | To modify standards for determining financial responsibility in the awarding of construction contracts to the lowest and most responsible bidder  |
| 464 | No  | Authorizes the collection of interest on judgments to cover computerization of the clerk of court's office and the clerk's computerized legal research services; permits total judgment amounts issued by a clerk of courts to include charges for the amount of the judgment, interest, and collection costs; and prohibits debt collection service providers from deducting fees or expenses from judgments   |
| 470 | No  | Modifies statutory forms of certain real property instruments and declares an emergency   |
| 471 | No  | To establish Congressional boundaries for the state based on the 2000 decennial census of Ohio  |
| 473 | No  | A land conveyance bill, and to declare an emergency.  |
| 474 | No  | Declare that assisted suicide is against the public policy of the state and create the Compassionate Care Task Force  |
| 485 | No  | Eliminates the requirement of force or a threat of force for a sentence of life imprisonment for the rape of a child who is less than ten years of age, requires either life imprisonment or life imprisonment without parole for the rape of a child less than thirteen years of age if the offender previously was convicted of the rape of a child under that age or caused serious physical harm to the victim, specifies that a conviction of or plea of guilty to rape when the victim was under 13 years of age automatically subjects the offender to the same duties and responsibilities as a sexual predator under the Sex Offender Registration and Notification Law, and declares an emergency   |
| 490 | Yes | Implements the recommendations of the Criminal Sentencing Commission pertaining to misdemeanor sentencing generally and makes other changes in the criminal law, including changes in the law regarding matter harmful to juveniles, and in certain provisions regarding the issuance of motor vehicle registrations or driver's licenses   |
| 493 | No  | To eliminate the special requirements governing Sunday hunting, to revise the law   |

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|     |          | governing the disposition of deer killed by motor vehicles, and to authorize the adoption of rules regarding the hunting of migratory game birds   |
| 496 | No       | Creates the Chemical Dependency Professionals Board, requires licensure or certification of chemical dependency counselors and certification of alcohol and other drug prevention specialists, and makes an appropriation  |
| 498 | No       | Designates a portion of Interstate Route 490 as the "Troy Lee James Highway"   |
| 499 | Yes      | Adds one additional judge for the general division of the Butler County Court of Common Pleas to be elected in 2002 for a term to begin January 3, 2003 and declares an emergency  |
| 506 | No       | Modifies the Credit Union Guaranty Corporations Law  |
| 507 | No       | Authorizes the conveyance of two parcels of state-owned real estate in Guernsey County, and state-owned property in Summit County to the Nordonia Hills City School District   |
| 509 | No       | Allows a trust company to purchase products or services through or from the trust company or an affiliate, expands the investment authority of fiduciaries under the Probate Fiduciaries Law, and restricts bequests and other property transfers to persons adopted as adults   |
| 510 | No > Yes | Amends existing law relative to the operation of the Department of Rehabilitation and Correction, including the treatment of prisoners, the Adult Parole Authority, and the confidentiality of certain reports and information, expands the offense of sexual battery, creates the offense of illegal conveyance of a communications device onto the grounds of a detention facility, and provides for the auditing of community-based correctional facilities   |
| 512 | No       | Defines "bingo" to include bingo, instant bingo, punch boards, and raffles, increases the license fee to two hundred dollars for a license that authorizes charitable organizations to conduct bingo, creates a separate license that authorizes charitable organizations to conduct instant bingo with a license fee based on all money or assets received from instant bingo, allows the Attorney General to set the license fee for new regular bingo licensees, requires the licensing of manufacturers and distributors of bingo supplies, regulates the conduct of instant bingo and raffles, and makes other changes in the Charitable Gambling Law |
| 513 | No       | Increases township authority for various purposes  |
| 514 | No       | To expand the time within which lien rights of subcontractors and materials suppliers are preserved under the Mechanic's Lien Law  |
| 515 | Yes > No | Makes changes relating to the board of township trustees' journal, meeting minutes, and publication of resolutions in a home rule township; and allows civil service townships that are urban townships to appoint any one of the three highest scores on a police or fire department promotional exam   |
| 518 | No       | Authorizes boards of county commissioners of certain counties to levy an additional excise tax on lodging and allows the most populous municipal corporation in those counties to levy an additional excise tax on lodging.  |
| 520 | No       | Revises the forcible entry and detainer law relative to writs of execution issued in connection with manufactured home park residential premises   |
| 522 | No       | Adopts the Uniform Principal and Income Act (1997) regarding standards for administering trusts, modifies state bond law, and declares an emergency  |
| 524 | No       | Capital reappropriations for fiscal years 2003-2004, new appropriations for Public Works Commission and the Veterans' Home for fiscal years 2003-2004, various budget adjustments and technical corrections  |
| 527 | No       | Designates the "Joseph Guy Lapointe, Jr. Memorial Parkway" in Montgomery County  |
| 530 | No > Yes | Modifies the small county exception to the drawing, summoning, and service of jurors for a term or part of a term of a court of common pleas, allows the board of trustees of a fire district to issue bonds for the purpose of acquiring fire-fighting equipment, buildings, and  |

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|     |    | sites, allows municipal court judges and county court judges to be paid in biweekly installments, confirms certain amendments of Sub. H.B. 8 of the 124th General Assembly relating to the creation of an additional term of the drug court judge of the Hamilton County Court of Common Pleas, creates the Brown County Municipal Court with one full-time judgeship in that court and abolishes the Brown County County Court, continues the authority of the mayor of Georgetown to conduct a mayor's court, creates the Morrow County Municipal Court with one full-time judgeship in that court and abolishes the Morrow County County Court, continues the authority of the mayor of Mount Gilead to conduct a mayor's court, and declares an emergency |
| 533 | No | Permits the testimonial privilege between a physician or dentist and a deceased patient to be waived by any party to a will contest action  |
| 539 | No | Restricts deeds, rules, regulations and bylaws of associations from prohibiting the display or placement of flagpoles for the display of the U.S. flag  |
| 545 | No | Requires certain special police officers of certain airports to receive peace officer training and certification and annual firearms re-qualification, designates those special police officers as peace officers and law enforcement officers for certain purposes, exempts certain certification examinations from the Public Records Law, requires the Executive Director of the Peace Officer Training Commission to cause a criminal records check of any person seeking peace officer basic training certification before the person's completion of an approved program, and authorizes the conveyance of state-owned land in Madison County to the Kirkwood Cemetery Association  |
| 548 | No | Clarifies that no fees, cost, deposit, or money may be charged relative to certain protection orders and consent agreements or relative to the filing or prosecution of domestic violence charges and expands the out-of-state protection orders that are within the scope of the laws regarding out-of-state protection orders   |
| 580 | No | To designate a portion of Interstate 270 within Franklin County as the "Trooper Frank G. Vasquez Memorial Highway"  |
| 605 | No | Enacts the Intrastate Mutual Aid Compact  |
| 657 | No | To revise the law governing child support enforcement and to declare an emergency   |
| 675 | No | Capital appropriations for FY 2003-2004 and other changes to law  |

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**Yes means a local impact for both introduced and enacted.**

**Yes > No means a local impact as introduced, but not as enacted.**

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## **All Senate Bills Passed in 2002 that Became Law**

| Senate Bill | LIS | Subject  |
|-------------|-----|--|
| 8           | No  | Regulates the transmission of electronic mail advertisements   |
| 9           | No  | Extends the statute of limitations and limits the defense of consent in a civil assault or battery actions by a mental health client or patient against a mental health professional based on sexual conduct or sexual contact, expands the offenses of “sexual battery” and “sexual imposition” to prohibit in specified circumstances involving false claims of necessary treatment mental health professionals from engaging in sexual conduct or sexual contact with their mental health clients or patients, provides notice to the regulatory entity with authority over a mental health professional who is charged with or convicted of those activities, modifies the laws regarding the State Board of Psychology, and modifies the laws governing psychologist misconduct |
| 65          | No  | Provides immunity from tort liability  |
| 85          | No  | To designate a portion of State Route 72 as the "Governor James A. Rhodes Memorial Highway"  |
| 93          | No  | To exempt wages of \$50 or less from coverage under the Unclaimed Funds Law  |
| 105         | No  | Establishes a five-year statute of limitations for actions for civil or administrative penalties brought under certain environmental laws and exempts certain activities involving the dispensing of diesel fuel from the state fire code  |
| 106         | No  | Make various revisions to the Political Subdivision Sovereign Immunity Law   |
| 107         | No  | Specifies the circumstances that would bar the recovery of damages in tort actions commenced by criminal offenders   |
| 109         | No  | Prohibits the state or any political subdivision from requiring that bidders on public improvement projects acquire surety bonds or insurance policies from specified agents or brokers  |
| 115         | No  | Revises the civil immunity laws of the State Fire Marshal, declares the State Fire Marshal's office to be a "firefighting agency," allows the State Fire Marshal and political subdivisions to appeal State Board of Building Appeals, provides for paid leave to volunteer firefighters and EMS workers, makes changes to the Volunteer Firefighters' Dependent Fund, and codifies the State Fire Commission's responsibilities of maintaining the Ohio Fire Service Hall of Fame   |
| 120         | No  | Modifies the law regarding the apportionment of liability in specified civil actions   |
| 121         | No  | Revisions to the law regarding required screenings of newborn children for genetic, endocrine, and metabolic disorders, the Wellness Block Grant Program, and the Children's Trust Fund, and to designate September as “Sickle Cell Anemia Awareness Month”  |
| 123         | Yes | Amends various traffic laws to include recommendations from the Ohio Criminal Sentencing Commission  |
| 124         | No  | Sanctions for a health care facility's violations of licensing requirements and quality standards, injunctions to enjoin such violations, informed consent compliance requirements for ambulatory surgical facility physicians, expanded health care facility rule making authority of the Director of Health, and implementation of requirements applicable to trauma centers   |
| 129         | No  | Provides for reciprocal recognition across states of insurance agent licenses  |
| 131         | No  | Confers two distinct qualified immunities from tort liability upon a shelter for victims of  |

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|     |          | domestic violence and its directors, owners, trustees, officers, employees, victim advocates, and volunteers for harm that family or household members cause to victims of domestic violence or other persons on the shelter's premises, or on premises other than the shelter's premises, under specified circumstances  |
| 134 | Yes      | Provides for establishment of the Ohio Police and Fire Pension Fund deferred retirement option plan   |
| 138 | No       | Specifies circumstances under which the Department of Insurance and the Division of Financial Institutions may share confidential documents and information and makes changes to the Securities Law   |
| 143 | No       | Enacts the Simplified Sales and Use Tax Administration Act  |
| 144 | Yes      | Establishes the Ethanol Incentive Board, creates corporate franchise and personal income tax credits for ethanol plants, expands the definition of air quality facilities to include ethanol and biofuels plants, and declares an emergency.  |
| 149 | No       | Increases the amount that a wrongfully imprisoned individual, in an action brought in the Court of Claims, is entitled to for each year of imprisonment, provides for cost of living adjustments of that amount by the Auditor of State, and allows the wrongfully imprisoned individual to recover any cost debts the wrongfully imprisoned individual paid the Department of Rehabilitation and Correction while in its custody or under its supervision  |
| 150 | No       | To provide owners of canoes, rowboats, and inflatable watercraft with an optional exemption from numbering requirements   |
| 153 | No       | To designate a portion of I-71 within Ashland County as the "Trooper James R. Gross Memorial Highway"   |
| 157 | No       | Increases from \$1,000 to \$15,000 the amount a township may expend on construction, rebuilding, or repair of a footbridge across rivers and streams to access public schools   |
| 161 | No       | Establishes a cap of \$50 million excluding interest and costs as the maximum allowable amount for a supersedeas bond to obtain a stay of execution during an appeal  |
| 163 | No       | Prohibits knowingly dropping or throwing any object at, onto, or in the path of any vehicle on a highway or any vessel on a waterway, prohibits knowingly dropping or throwing any object in the path of a railroad, enacts other new offenses relating to railroad property and operations and railroad grade crossing warning signals and other protective devices, creates the Highway, Bridge, and Overpass Vandal Fence Task Force, and allows the use of the results of field sobriety tests that are in substantial compliance with NHTSA standards to establish, in a vehicle or watercraft OMVI or OMVUAC prosecution and in a "having physical control of a vehicle while under the influence" prosecution, that probable cause existed for the initial arrest  |
| 168 | No       | Extends the application of the vexatious litigator law to actions commenced in a court of appeals and excludes the Supreme Court of Ohio from the laws pertaining to collection of fees from inmates filing civil actions against a governmental entity or employee   |
| 171 | No       | Modifies requirements related to insurance companies and the Department of Insurance  |
| 175 | No > Yes | Revises the law regarding sexual predator hearings for offenders convicted of a sexually oriented offense but acquitted of a sexually violent predator specification, revises the law regarding Department of Rehabilitation and Correction employees' immunity for acts under the Sex Offender Registration and Notification Law, makes certain importuning violations a sexually oriented offense, expands the sex offender community notification provisions to give more neighbors notice and earlier notice, changes the law regarding sexual predators and certain habitual sex offenders providing a notice to sheriffs of an intent to reside at a premise, increases the amount of prior notice sex offenders must provide relative to changing residence, changes the relevant age of the victim and offender for the offense of importuning, and declares an emergency |
| 179 | No       | Modify the law regarding peer review committees   |

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| 180 | Yes | Creates the Ohio Venture Capital Program to provide for the direction of moneys from loans into investments in venture capital funds secured through Program revenues and refundable and nonrefundable tax credits that may be claimed against the corporation franchise tax, the personal income tax, the domestic insurance tax or the foreign insurance tax; requires state and county taxing officials to notify local taxing authorities of pending pollution control tax exemption applications; allows certain real property taxpayers to file a complaint with the Board of Tax Appeals; prohibits municipal corporations from taxing S corporations shareholders' distributive shares of net profits; and makes changes to the job retention tax credit |
| 184 | No  | Creates the offenses of terrorism, soliciting or providing support for an act of terrorism, and making a terroristic threat, expands certain offenses and laws relative to those offenses, increases the penalty for obstruction of justice involving terrorism, expands and renames the offense of contaminating a substance for human consumption, exempts certain security-related information from the Public Records Law, revises the Open Meetings Law provision regarding executive sessions to consider security matters, revises the Emergency Management Law regarding all-hazards emergency operations plans, and declares an emergency   |
| 187 | No  | To increase the maximum compensation for members of school district boards of education, joint vocational schools and educational service center governing boards; to permit compensation to members for attendance at training programs; and to increase compensation for members serving on the Board of Trustees for Joint Ambulance Districts  |
| 191 | No  | Revise the law governing the licensure of residential facilities for individuals with mental retardation or other developmental disability   |
| 192 | No  | To abolish the requirement that the State Board of Education be dissolved and recreated following the creation of a new State Board of Education, to alter the terms of office for SchoolNet members, and to declare an emergency  |
| 193 | No  | Authorizes the expansion of the Treasurer of State's linked deposit program; modifies the authority of the State Board of Deposit to designate public depositories; expands the investment authority of the Treasurer of State under the Uniform Depository Act; eliminates the Depressed Economic Area Linked Deposit Program and modifies licensed vendor reporting requirements   |
| 200 | No  | Revises tax law and administration – Taxpayer Services II  |
| 212 | No  | Adopts the Midwest Interstate Passenger Rail Compact   |
| 217 | No  | To revise the Pesticides Law   |
| 218 | No  | Modifies the oath administered to members of a grand jury  |
| 219 | No  | To authorize the conveyance of real estate originally purchased for the State Highway Patrol, to authorize the conveyance of state-owned real estate in Scioto County by Shawnee State University, and to declare an emergency   |
| 221 | No  | Prohibits specified acts with respect to a companion animal, establishes a procedure for the care of an impounded companion animal during the pendency of charges against a person who violates the prohibition, requires training for humane agents, and provides for the reporting by county humane society agents of abuse or neglect of children   |
| 223 | Yes | Requires payment, under Workers' Compensation Law, for the costs of medical diagnostic tests for on or off-duty police, fire and emergency first responders that have come into contact with the body fluid of another person  |
| 226 | No  | Permits the transfer of a lottery prize award  |
| 227 | No  | Modifies the subrogation provisions of Workers' Compensation Law, and increases the workers' compensation funeral expense benefit cap  |
| 231 | No  | Exempts electric personal assistive mobility devices from the definition of vehicle and permits their operations on various roads and pathways   |

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| 240 | No  | Encourages proper display and disposal of the state flag, explains symbolism, and establishes a pledge   |
| 242 | No  | Tobacco budget for the biennium beginning July 1, 2002 and ending June 30, 2004  |
| 245 | No  | Provides that certain medical physical examinations that are required by statute may be performed by a clinical nurse specialist, certified nurse practitioner, or certified nurse-midwife   |
| 247 | No  | Creates a lump sum option payment in PERS, STRS and SERS and makes other changes governing STRS  |
| 250 | No  | Prohibits the recording of more than the last five digits of a credit card account number, or recording the expiration date of a credit card, on an electronically printed receipt provided to a credit cardholder, and provides civil remedies for a violation of the act and for enforcement by the Attorney General                     |
| 255 | Yes | Revises the provisions on the use of public right-of-ways by utility service providers and cable operators and makes other changes.  |
| 258 | No  | Permits background checks on firefighters and EMTs, exempts from the Public Records Law specified firefighter and EMT residential and familial information, and makes changes in the Hotel Law   |
| 261 | No  | Increases the rate of tax on cigarettes, makes other tax modifications, provides authorization and conditions for the operation of state programs, makes other budgetary and program modifications, and makes operating appropriations for the period ending June 30, 2003, and capital appropriations for the period ending June 30, 2004 |
| 262 | No  | To create the Auction Recovery Fund and to establish criteria and procedures for using it to reimburse those who have obtained a court judgment against an auctioneer  |
| 265 | No  | Regulates incorporations by reference in administrative rules and permits emergency rules to be re-adopted during the legislative review carry-over period   |
| 266 | No  | Makes changes to the law surrounding the State Board of Proprietary School Registration  |
| 281 | No  | Amends the law governing medical, dental, optometric, and chiropractic claims  |
| 290 | No  | Creates the statewide emergency alert program to aid in the identification and location of abducted children, establishes activation criteria for the implementation of the program, creates the AMBER Alert Advisory Committee, and declares an emergency   |

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